ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA

Regular Session, 2017
Constitutional Amendment, 2017
First Extraordinary Session, 2017

Volume II
Chapters 140 - 246
Chapters 1 - 7
## TABLE OF CONTENTS

### ACTS

**Regular Session, 2017**

### GENERAL LAWS

*Denotes Committee Substitute

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Bill No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>140.</td>
<td>(*SB113)</td>
<td>Authorization DEP promulgate legislative rules ........ 1215</td>
</tr>
<tr>
<td>141.</td>
<td>(*SB125)</td>
<td>Authorization DHHR and Health Care Authority promulgate legislative rules................................. 1218</td>
</tr>
<tr>
<td>142.</td>
<td>(*SB116)</td>
<td>Authorization MAPS promulgate legislative rules ........ 1223</td>
</tr>
<tr>
<td>143.</td>
<td>(*SB127)</td>
<td>Authorization certain Department of Revenue to promulgate legislative rules................................. 1227</td>
</tr>
<tr>
<td>144.</td>
<td>(*HB2219)</td>
<td>Authorization miscellaneous boards and agencies to promulgate legislative rules................................. 1237</td>
</tr>
<tr>
<td>145.</td>
<td>(*SB134)</td>
<td>Authorization Bureau of Commerce to promulgate legislative rules................................. 1264</td>
</tr>
</tbody>
</table>

### LEGISLATURE

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Bill No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>146.</td>
<td>(SB554)</td>
<td>Relating to false swearing in legislative proceeding................................. 1267</td>
</tr>
</tbody>
</table>

[IV]
| 147. | (*HB2898) | Authorizing the Joint Committee on Government and Finance to request and obtain criminal background checks of employees of the Legislature | 1268 |
| 148. | (*HB2839) | Updating the procedures for legislative review of departments and licensing boards | 1269 |

**LIENS**

| 149. | (*SB261) | Relating to increasing salary or wages of judgment debtor | 1278 |

**LITTERING**

| 150. | (*HB2303) | Increasing criminal penalties for littering | 1282 |

**MANUFACTURED HOMES**

| 151. | (SB658) | Establishing procedure for retitling mobile and manufactured homes | 1288 |

**MOTOR VEHICLES**

| 152. | (*HB2402) | Relating to abandoned antique vehicles | 1291 |
| 153. | (*HB2180) | Authorizing the issuance of special "In God We Trust" motor vehicle registration plates | 1311 |
| 154. | (SB235) | Relating to motorcycle registration renewal | 1351 |
| 155. | (*SB173) | Relating generally to autocycles | 1355 |

**MUNICIPALITIES**

| 156. | (*SB631) | Prosecuting violations of municipal building code | 1362 |
| 157. | (*HB2603) | Relating to municipal policemen’s or firemen’s pension and relief funds that are funded at one hundred and twenty-five percent or more | 1376 |
158. (*HB2601) Relating to municipal policemen’s or municipal
        firemen’s pension and relief funds ...................... 1383

159. (SB392) Relating to Municipal Police Officers and
        Firefighters Retirement System ......................... 1387

160. (*HB2709) Authorizing the City of South Charleston to
        levy a special district excise tax......................... 1398

161. (*HB3096) Relating to operation and regulation of certain
        water and sewer utilities owned or operated
        by political subdivisions of the State..................... 1400

162. (*HB2109) Relating to the West Virginia Land Reuse
        Agency Authorization Act................................. 1435

NATURAL RESOURCES

163. (*HB2679) Relating to the possession of firearms in parks
        and park facilities ......................................... 1440

164. (*HB2949) Exempting specified Division of Natural
        Resources’ contracts for some replacement,
        repair or design for repairs to facilities from
        review and approval requirements....................... 1450

165. (*SB473) Permitting collection and sale of naturally shed
        deer antlers ................................................ 1458

166. (*SB345) Allowing certain hunting and trapping on
        private lands on Sundays................................. 1462

167. (SB493) Providing increase in compensation for
        conservation officers ..................................... 1468

OUTSIDE SPEAKER SYSTEMS

168. (HB2548) Relating to the use of outside speakers by
        persons licensed to manufacture, sell, possess
        for sale, transport or distribute
        nonintoxicating beer ...................................... 1472
PROFESSIONS AND OCCUPATIONS

169. (*HB2631) Relating to time standards for disposition of complaint proceedings................................................. 1479

170. (*HB2804) Removing chiropractors from the list of medical professions required to obtain continuing education on mental health conditions common to veterans and family members................................. 1481

171. (*SB4) Allowing licensed professionals donate time to care of indigent and needy in clinical setting........ 1485

172. (HB2628) Relating generally to the powers and duties of the Board of Medicine and the Board of Osteopathic Medicine................................................. 1527

173. (*HB2509) Relating to the practice of telemedicine................. 1553

174. (*HB2359) Relating to offenses and penalties for practicing osteopathic medicine without a license ............. 1566

175. (*HB2301) Relating to direct primary care ........................................ 1568

176. (HB2518) Creating a legislative rule to permit a pharmacist or pharmacy intern to administer certain immunizations ................................................. 1572

177. (*HB2846) Including high school students participating in a competency based pharmacy technician education and training program as persons qualifying to be a pharmacy technician trainee................................................. 1577

178. (HB2522) Nurse licensure compact................................................. 1579

179. (HB2691) Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber................................................. 1606

180. (HB2348) Eliminating any requirement that class hours of students be consecutive ................................................. 1609
181. (*HB2347) Allowing schools licensed to provide barber, cosmetology and related training to hold theory classes and clinical classes at different locations .................................................. 1610

182. (*SB350) Allowing licensed professional counselors be issued temporary permit ......................................... 1611

PUBLIC EMPLOYEES

183. (*SB523) Converting to biweekly pay cycle for state employees ................................................................. 1621

184. (*HB2006) Increasing the penalties for violating the Whistle-blower Law ....................................................... 1656

PUBLIC HEALTH

185. (*HB2459) Relating to regulation of health care and the certificate of need process ........................................... 1657

186. (*HB2002) Relating to parental notification of abortions performed on unemancipated minors ...................... 1739

187. (HB2431) Allowing influenza immunizations to be offered to patients and residents of specified facilities .................. 1747

188. (*HB2620) West Virginia Drug Overdose Monitoring Act........ 1748

189. (SB188) Correcting definition of "telehealth" in medication-assisted treatment programs...................... 1754

190. (*SB360) Creating Legislative Coalition on Diabetes Management ................................................................. 1760

191. (SB578) Relating generally to copies of health care records furnished to patients............................................. 1765

[VIII]
<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>192. (*HB2520)</td>
<td>Prohibiting the use of a tanning device by a person under the age of eighteen</td>
</tr>
<tr>
<td>193. (*SB339)</td>
<td>Creating Legislative Coalition on Chronic Pain Management</td>
</tr>
<tr>
<td>194. (*HB2428)</td>
<td>Establishing additional substance abuse treatment facilities</td>
</tr>
<tr>
<td>195. (*SB386)</td>
<td>Creating WV Medical Cannabis Act</td>
</tr>
<tr>
<td>196. (*SB187)</td>
<td>Providing for confidentiality of patients' medical records</td>
</tr>
<tr>
<td>197. (*SB398)</td>
<td>Creating Emergency Volunteer Health Practitioners Act</td>
</tr>
</tbody>
</table>

**PUBLIC LIBRARIES**

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>198. (*HB2792)</td>
<td>Requiring the Library Commission to survey the libraries of the State</td>
</tr>
</tbody>
</table>

**PUBLIC SAFETY**

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>199. (*HB2759)</td>
<td>Creating Statewide Interoperable Radio Network</td>
</tr>
<tr>
<td>200. (*SB230)</td>
<td>Relating to certain WV officials carrying concealed firearm nationwide</td>
</tr>
<tr>
<td>201. (HB2796)</td>
<td>Relating to the West Virginia National Guard entering into contracts and subcontracts for specialized technical services</td>
</tr>
<tr>
<td>202. (*SB280)</td>
<td>Moving administration of Civil Air Patrol to Adjutant General</td>
</tr>
<tr>
<td>203. (SB690)</td>
<td>Authorizing WV State Police impose and collect fees for agencies and entities using their facilities</td>
</tr>
<tr>
<td>204. (SB684)</td>
<td>Relating generally to WV State Police</td>
</tr>
</tbody>
</table>
205. (*HB2939) Relating to the sale of items in the State Police Academy post exchange to the public .......................... 1908

206. (*HB2676) Transferring the Security Office under the Division of Culture and History to the Division of Protective Services .......................... 1910

207. (*HB2167) Creating a Silver Alert program for senior citizens................................................................. 1915

208. (*SB636) Authorizing State Fire Commission establish program to address problems facing VFDs ......... 1920

PUBLIC SERVICE COMMISSION

209. (*SB180) Relating to PSC jurisdiction over certain telephone company and internet services .............. 1922

210. (SB174) Exempting transportation of household goods from PSC jurisdiction........................................... 1930

PUBLIC TRUST

211. (HB3022) Relating to the reporting of fraud, misappropriation of moneys and other violations of law to the Commission on Special Investigations................................................. 1933

RECORDS AND PAPERS

212. (*SB214) Adopting Uniform Electronic Legal Material Act................................................................. 1936

REGULATION OF TRADE

213. (*SB602) Creating uniform system of recording and indexing fictitious names used by sole proprietors ................................................................. 1941

214. (*SB402) Relating to covenants not to compete between physicians and hospitals .............................................. 1942
215. (*HB2961) Relating generally to charitable bingo games and charitable raffles ................................. 1945

RETIRED

216. (*HB2586) Relating to required minimum distribution of retirement benefits of plans administered by the Consolidated Public Retirement Board ............ 1956

217. (SB321) Reporting requirements of employee information to CPRB .............................................. 1982

ROADS AND HIGHWAYS

218. (*HB2722) Eliminating the financial limitations on utilizing the design-build program for highway construction ................................................. 1984

219. (HB2878) Increasing amount of authorized Federal Grant Anticipation Notes for which Division of Highways may apply ........................................ 1986

220. (*HB2721) Removing the cost limitation on projects completed by the Division of Highways .................. 1987

SCHOOL PERSONNEL

221. (*HB2637) Relating to employment of retired teachers and prospective employable professional personnel in areas of critical need and shortage .................................................. 1995

222. (*HB2771) Relating to temporary teaching certificates for Armed Forces spouses .................................. 2003

223. (*HB2704) Prohibiting persons convicted of sexual offenses against children with whom they hold positions of trust from holding certification or license valid in public schools ...... 2009

224. (SB256) Relating to prohibiting aiding and abetting of sexual abuse by school personnel ......................... 2012
<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Description</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>225. (*HB2851)</td>
<td>Updating fee structure provisions for broker-dealers</td>
<td>2014</td>
</tr>
<tr>
<td>226. (SB564)</td>
<td>Relating to Statewide Independent Living Council</td>
<td>2024</td>
</tr>
<tr>
<td>227. (*SB533)</td>
<td>Relating to taxes on wine and intoxicating liquors</td>
<td>2034</td>
</tr>
<tr>
<td>228. (*HB2734)</td>
<td>Authorizing a method for the collection and remittance of property taxes related to dealers’ heavy equipment inventory</td>
<td>2041</td>
</tr>
<tr>
<td>229. (HB2774)</td>
<td>Defining special aircraft property</td>
<td>2044</td>
</tr>
<tr>
<td>230. (HB2963)</td>
<td>Eliminating tax lien waiver requirement for estates of nonresidents</td>
<td>2046</td>
</tr>
<tr>
<td>231. (*HB2555)</td>
<td>Relating to tax credits for apprenticeship training in construction trades</td>
<td>2048</td>
</tr>
<tr>
<td>232. (SB25)</td>
<td>Creating farm-to-food bank tax credit</td>
<td>2050</td>
</tr>
<tr>
<td>233. (SB364)</td>
<td>Incorporating changes to Streamlined Sales and Use Tax Agreement</td>
<td>2054</td>
</tr>
<tr>
<td>234. (HB2594)</td>
<td>Updating the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act</td>
<td>2056</td>
</tr>
<tr>
<td>235. (SB433)</td>
<td>Permitting counties increase excise tax on privilege of transferring real property</td>
<td>2058</td>
</tr>
<tr>
<td>236. (HB2590)</td>
<td>Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act</td>
<td>2061</td>
</tr>
</tbody>
</table>
237. (*SB486) Relating to health care provider taxes.................. 2062

TOURISM

238. (*SB535) Reorganizing Division of Tourism......................... 2065
239. (*SB637) Relating to private club operations requirements...... 2079

TRAFFIC REGULATIONS

240. (HB2684) Imposing penalties for repeat violations of the prohibition against driving under the influence on a suspended license......................... 2086
241. (HB3053) Relating to motor vehicle lighting......................... 2089
242. (SB164) Relating to traffic regulations and special load limits........................................................................ 2092
243. (*HB3064) Allowing vehicles of a size and weight exceeding certain specifications to operate over specified routes.......................................................... 2093
244. (*SB5) Disqualifying CDL for DUI conviction in certain cases........................................................................ 2097

UNEMPLOYMENT COMPENSATION

245. (*SB222) Relating to disqualification for unemployment benefits................................................................. 2119
246. (SB365) Maintaining solvency of Unemployment Compensation Fund................................................................. 2126

CONSTITUTIONAL AMENDMENT, 2017

RESOLUTION NO. Page

(*SJR6) Roads to Prosperity Amendment of 2017..................... 2129
# TABLE OF CONTENTS

## ACTS

First Extraordinary Session, 2017

### GENERAL LAWS

*Denotes Committee Substitute

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Bill No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>(SB1013)</td>
<td>Budget Bill .................................................. 2133</td>
</tr>
<tr>
<td>2.</td>
<td>(HB111)</td>
<td>Relating generally to tax procedures and administration............................................. 2351</td>
</tr>
<tr>
<td>3.</td>
<td>(SB1014)</td>
<td>Relating generally to physician assistants ................. 2356</td>
</tr>
<tr>
<td>4.</td>
<td>(*HB117)</td>
<td>Relating to West Virginia Health Care Authority ...................................................... 2379</td>
</tr>
<tr>
<td>5.</td>
<td>(SB1003)</td>
<td>Relating generally to WV Parkways Authority ........... 2393</td>
</tr>
</tbody>
</table>
# TABLE OF CONTENTS

## TAXATION

6. (SB1006) Increasing funding for State Road Fund .................. 2423

## VOLUNTEER FIRE DEPARTMENTS

7. (SB1010) Relating to Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund ......................................................... 2484
# Members of the House of Delegates

## Regular Session, 2017

**Officers**

*Speaker*: Tim Armstead – Elkview  
*Clerk*: Stephen J. Harrison – Cross Lanes  
*Sergeant-at-Arms*: Marshall Clay – Fayetteville  
*Doorkeeper*: Frank Larese – Belle

<table>
<thead>
<tr>
<th>Name</th>
<th>District</th>
<th>City</th>
<th>Occupation</th>
<th>Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ambler, George “Boogie” (R)</td>
<td>42nd</td>
<td>Fort Spring</td>
<td>Businessman/Educator/Farmer</td>
<td>81st – 83rd</td>
</tr>
<tr>
<td>Anderson, Everette W. Jr. (R)</td>
<td>8th</td>
<td>Williamstown</td>
<td>Educator</td>
<td>71st – 83rd</td>
</tr>
<tr>
<td>Armstead, Tim (R)</td>
<td>40th</td>
<td>Elkview</td>
<td>Attorney</td>
<td>Appt. 9/5/1998, 73rd; 74th – 83rd</td>
</tr>
<tr>
<td>Arvon, Karen “Lynne” (R)</td>
<td>31st</td>
<td>Beckley</td>
<td>Medical Sales/Social Services</td>
<td>81st – 83rd</td>
</tr>
<tr>
<td>Atkinson III, Martin “Rick” (R)</td>
<td>11th</td>
<td>Reedy</td>
<td>Director of Sales</td>
<td>82nd – 83rd</td>
</tr>
<tr>
<td>Baldwin, Jr, Stephen (D)</td>
<td>42nd</td>
<td>Ronceverte</td>
<td>Minister</td>
<td>83rd</td>
</tr>
<tr>
<td>Barrett, Jason (D)</td>
<td>61st</td>
<td>Martinsburg</td>
<td>Restaurant Owner</td>
<td>81st; 83rd</td>
</tr>
<tr>
<td>Bates, Mick (D)</td>
<td>30th</td>
<td>Beckley</td>
<td>Physical Therapist/Small Business Owner</td>
<td>82nd – 83rd</td>
</tr>
<tr>
<td>Blair, Saira (R)</td>
<td>59th</td>
<td>Martinsburg</td>
<td>Student</td>
<td>83rd</td>
</tr>
<tr>
<td>Boggs, Brent (D)</td>
<td>34th</td>
<td>Gassaway</td>
<td>Railroad Engineer</td>
<td>73rd – 83rd</td>
</tr>
<tr>
<td>Brewer, Scott (D)</td>
<td>13th</td>
<td>New Haven</td>
<td>Union Carpenter</td>
<td>83rd</td>
</tr>
<tr>
<td>Butler, Jim (R)</td>
<td>14th</td>
<td>Henderson</td>
<td>Excavating Contractor</td>
<td>81st – 83rd</td>
</tr>
<tr>
<td>Byrd, Andrew D. (D)</td>
<td>35th</td>
<td>South Charleston</td>
<td>Attorney/Small Business Owner</td>
<td>83rd</td>
</tr>
<tr>
<td>Capito, Moore (R)</td>
<td>35th</td>
<td>Charleston</td>
<td>Attorney</td>
<td>83rd</td>
</tr>
<tr>
<td>Caputo, Mike (D)</td>
<td>50th</td>
<td>Rivesville</td>
<td>UMWA, District 31 Vice-President</td>
<td>73rd – 83rd</td>
</tr>
<tr>
<td>Cooper, Roy G. (R)</td>
<td>28th</td>
<td>Waynesboro</td>
<td>Retired U. S. Navy</td>
<td>81st – 83rd</td>
</tr>
<tr>
<td>Cowles, Daryl E. (R)</td>
<td>58th</td>
<td>Berkeley Springs</td>
<td>Businessman</td>
<td>78th – 83rd</td>
</tr>
<tr>
<td>Criss, Vernon (R)</td>
<td>10th</td>
<td>Parkersburg</td>
<td>Executive</td>
<td>69th; 83rd</td>
</tr>
<tr>
<td>Dean, Mark (R)</td>
<td>21st</td>
<td>Verner</td>
<td>Principal</td>
<td>83rd</td>
</tr>
<tr>
<td>Deem, Frank (R)</td>
<td>10th</td>
<td>Vienna</td>
<td>Businessman, Oil and Gas Producer</td>
<td>52rd – 56th; 57th – 62nd (Senate); 64th – 65th (Senate); 72nd – 79th (Senate); 82nd – 83rd</td>
</tr>
<tr>
<td>Diserio, Phillip (D)</td>
<td>2nd</td>
<td>Follansbee</td>
<td>Retired Electrician</td>
<td>81st; 83rd</td>
</tr>
<tr>
<td>Eldridge, Jeff (D)</td>
<td>22nd</td>
<td>Alum Creek</td>
<td>Self Employed</td>
<td>77th – 79th; 81st – 83rd</td>
</tr>
<tr>
<td>Ellington, Joe (R)</td>
<td>27th</td>
<td>Princeton</td>
<td>Physician</td>
<td>80th – 83rd</td>
</tr>
<tr>
<td>Espinosa, Paul (R)</td>
<td>66th</td>
<td>Charles Town</td>
<td>General Manager, Telecommunications</td>
<td>81st – 83rd</td>
</tr>
<tr>
<td>Evans, Allen V. (R)</td>
<td>54th</td>
<td>Petersburg</td>
<td>Businessman/Farmer</td>
<td>70th – 83rd</td>
</tr>
<tr>
<td>Evans, Edward (D)</td>
<td>26th</td>
<td>Welch</td>
<td>Retired Science Teacher</td>
<td>83rd</td>
</tr>
<tr>
<td>Name</td>
<td>District</td>
<td>City</td>
<td>Occupation</td>
<td>Term</td>
</tr>
<tr>
<td>---------------------------</td>
<td>----------</td>
<td>-------------------</td>
<td>-------------------------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>Fast, Tom (R)</td>
<td>32nd</td>
<td>Fayetteville</td>
<td>Attorney</td>
<td>82nd – 83rd</td>
</tr>
<tr>
<td>Ferro, Michael T. (D)</td>
<td>4th</td>
<td>McMechen</td>
<td>Retired Educator/Coach</td>
<td>79th – 83rd</td>
</tr>
<tr>
<td>Fleischauer, Barbara Evans (D)</td>
<td>51st</td>
<td>Morgantown</td>
<td>Attorney/Small Business Owner</td>
<td>72nd – 76th, 78th – 83rd</td>
</tr>
<tr>
<td>Fuhlary, Shawn (D)</td>
<td>3rd</td>
<td>Wheeling</td>
<td>Attorney</td>
<td>82nd – 83rd</td>
</tr>
<tr>
<td>Folk, Michael “Mike” (R)</td>
<td>63rd</td>
<td>Martinsburg</td>
<td>Airline Pilot; Farmer</td>
<td>81st – 83rd</td>
</tr>
<tr>
<td>Foster, Geoff (R)</td>
<td>15th</td>
<td>Winfield</td>
<td>Construction Supply</td>
<td>82nd – 83rd</td>
</tr>
<tr>
<td>Foster, Nancy Reagan (R)</td>
<td>38th</td>
<td>Scott Depot</td>
<td>Business Owner</td>
<td></td>
</tr>
<tr>
<td>Frich, Cindy (R)</td>
<td>51st</td>
<td>Morgantown</td>
<td>Sales/Volunteer Home Care</td>
<td>76th – 77th, 81st – 83rd</td>
</tr>
<tr>
<td>Gearheart, Marty (R)</td>
<td>27th</td>
<td>Bluefield</td>
<td>Businessman</td>
<td>80th – 83rd</td>
</tr>
<tr>
<td>Hamilton, Bill (R)</td>
<td>45th</td>
<td>Buckhannon</td>
<td>Independent Insurance Agency Owner</td>
<td>76th – 83rd</td>
</tr>
<tr>
<td>Hamrick, Danny (R)</td>
<td>48th</td>
<td>Clarksburg</td>
<td>Consulting, Media Production</td>
<td></td>
</tr>
<tr>
<td>Hanshaw, Roger (R)</td>
<td>33rd</td>
<td>Wallback</td>
<td>Attorney</td>
<td>82nd – 83rd</td>
</tr>
<tr>
<td>Harshbarger, Jason (R)</td>
<td>7th</td>
<td>Pullman</td>
<td>Natural Gas Storage Project Management</td>
<td>83rd</td>
</tr>
<tr>
<td>Hartman, William G. (D)</td>
<td>43rd</td>
<td>Elkins</td>
<td>Retired Independent Insurance Agent</td>
<td>76th – 83rd</td>
</tr>
<tr>
<td>Hicks, Kenneth Paul (D)</td>
<td>19th</td>
<td>Kenova</td>
<td>Attorney</td>
<td>82nd – 83rd</td>
</tr>
<tr>
<td>Higginbotham, Joshua (R)</td>
<td>13th</td>
<td>Poca</td>
<td>Author</td>
<td>83rd</td>
</tr>
<tr>
<td>Hill, Jordan (R)</td>
<td>41st</td>
<td>Summersville</td>
<td>Human Resources</td>
<td>82nd – 83rd</td>
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<tr>
<td>Hollen, Ray (R)</td>
<td>9th</td>
<td>Elizabeth</td>
<td>Retired USCG, Retired WV State Police</td>
<td>83rd</td>
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<tr>
<td>Hornbuckle, Sean (D)</td>
<td>16th</td>
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<td>Householder, Eric (R)</td>
<td>64th</td>
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<td>80th – 83rd</td>
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<td>Howell, Gary (R)</td>
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<td>76th – 81st, 83rd</td>
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<td>Eglon</td>
<td>Cable Splicer/Farmer</td>
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<td>Longstreth, Linda (D)</td>
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<td>Fairmont</td>
<td>Administrator/Educator</td>
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<td>Love, Shirley (D)</td>
<td>32nd</td>
<td>Oak Hill</td>
<td>Retired</td>
<td>Appt. 8/8/1994, 71st (Senate); 72nd – 78th (Senate); 83rd</td>
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<td>Lovejoy, Chad (D)</td>
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<td>Marcum, Justin (D)</td>
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<td>45th</td>
<td>Weston</td>
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<tr>
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<td>Term</td>
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<tr>
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<td>Beckley</td>
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<tr>
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<td>Paynter, Tony (R)</td>
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<tr>
<td>Pethtel, Dave (D)</td>
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<td>Educator</td>
<td>69th – 71st; 74th – 83rd</td>
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<td>Phillips, Rupert, Jr. (R)*</td>
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<td>Laredo</td>
<td>Sales Manager</td>
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<td>82nd – 83rd</td>
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<td>Pyles, Rodney (D)</td>
<td>51st</td>
<td>Morgantown</td>
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<td>83rd</td>
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<tr>
<td>Queen, Ben (R)</td>
<td>48th</td>
<td>Bridgeport</td>
<td>Media Entrepreneur/ Photography</td>
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<tr>
<td>Robinson, Andrew (D)</td>
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<td>Rodighiero, Ralph (D)</td>
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<td>Logan</td>
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<td>78th – 80th; 82nd – 83rd</td>
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<tr>
<td>Rohrbach, Matthew (R)</td>
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<td>59th – 61st; 74th – 83rd</td>
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<tr>
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<td>West Union</td>
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<td>75th – 83rd</td>
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<td>Rowan, Ruth (R)</td>
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<td>Points</td>
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<td>Rowe, Larry L. (D)</td>
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<td>Attorney</td>
<td>73rd – 74th; 75th – 76th (Senate); 82nd – 83rd</td>
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<tr>
<td>Shott, John (R)</td>
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<td>Bluefield</td>
<td>Attorney</td>
<td>79th (Resigned and Appt. to Senate May 2010); 81st – 83rd</td>
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<tr>
<td>Sobonya, Kelli (R)</td>
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<td>Realtor</td>
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<tr>
<td>Sponaugle, Isaac (D)</td>
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<td>81st – 83rd</td>
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<td>Statler, Joe (R)</td>
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<td>Core</td>
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<td>82nd – 83rd</td>
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<tr>
<td>Storch, Erika (R)</td>
<td>3rd</td>
<td>Wheeling</td>
<td>Financial Officer</td>
<td>80th – 83rd</td>
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<td>Summers, Amy (R)</td>
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<td>Sypolt, Terri Funk (R)</td>
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<td>Assessor</td>
<td>83rd</td>
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<td>Thompson, Robert (D)</td>
<td>19th</td>
<td>Wayne</td>
<td>Teacher</td>
<td>83rd</td>
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</table>

*Note: Delegate Phillips switched from Democrat to Independent on January 26, 2017, and from Independent to Republican on May 11, 2017.*
<table>
<thead>
<tr>
<th>Name</th>
<th>District</th>
<th>City</th>
<th>Occupation</th>
<th>Term</th>
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<tbody>
<tr>
<td>Upson, Jill (R)</td>
<td>65th</td>
<td>Charles Town</td>
<td>Former Retail Manager</td>
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<tr>
<td>Wagner, Danny (R)</td>
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<td>Philippi</td>
<td>Retired Educator and Coach</td>
<td>82nd – 83rd</td>
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<td>Walters, Ron (R)</td>
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<td>Charleston</td>
<td>Insurance Executive/President</td>
<td>71st – 73rd, 75th – 83rd</td>
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<td>Ward, Guy (R)</td>
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<td>Fairmont Community Development Partnership</td>
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<td>Westfall, Steve (R)</td>
<td>12th</td>
<td>Ripley</td>
<td>Insurance Agent</td>
<td>81st – 83rd</td>
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<td>White, Brad (R)</td>
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<td>Charleston</td>
<td>Insurance Agent/Owner</td>
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<td>Williams, John (D)</td>
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<td>Morgantown</td>
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<td>Wilson, S. Marshall (R)</td>
<td>60th</td>
<td>Gerrardstown</td>
<td>Author/Army Officer</td>
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<tr>
<td>Zatezalo, Mark (R)</td>
<td>1st</td>
<td>Weirton</td>
<td>Hydrogeologist</td>
<td>82nd – 83rd</td>
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</tbody>
</table>
### MEMBERS OF THE SENATE

#### REGULAR SESSION, 2017

#### OFFICERS

President: Mitch Carmichael – Ripley  
Clerk: Clark Barnes – French Creek  
Sergeant-at-Arms: Andrew Palmer – Charleston  
Doorkeeper: Jeffrey Branham – Cross Lanes

<table>
<thead>
<tr>
<th>Name</th>
<th>District</th>
<th>City</th>
<th>Occupation</th>
<th>Term</th>
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<tbody>
<tr>
<td>Azinger, Mike (R)</td>
<td>3rd</td>
<td>Vienna</td>
<td>Manager, Contractor Group</td>
<td>Appt. 5/14/85; 67th; 68th – 83rd (House); 82nd – 83rd</td>
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<td>Beach, Bob (D)</td>
<td>13th</td>
<td>Morgantown</td>
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<td>Blair, Craig (R)</td>
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<td>Martinsburg</td>
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<td>76th – 79th (House); 79th – 83rd</td>
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<tr>
<td>Boley, Donna (R)</td>
<td>3rd</td>
<td>St. Marys</td>
<td>Retired</td>
<td>Appt. 5/14/85; 67th; 68th – 83rd</td>
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<td>Boso, Greg (R)</td>
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<td>Summersville</td>
<td>Civil Engineer</td>
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<td>Carmichael, Mitch (R)</td>
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<td>Ripley</td>
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<td>75th – 80th (House); 81st – 83rd</td>
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<td>Clements, Charles H. (R)*</td>
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<td>Cline, Sue (R)</td>
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<td>Facemire, Doug (D)</td>
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<td>Owner, Grocery Chain</td>
<td>79th – 83rd</td>
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<td>Ferns, Ryan (R)</td>
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<td>Gaunch, Ed (R)</td>
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<td>Retired/Former President/ Insurance</td>
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<td>Hall, Mike (R)</td>
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<td>Tallmansville</td>
<td>Information and Technology Field Services</td>
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<td>Mann, Kenny (R)</td>
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<tr>
<td>Maroney, Mike (R)</td>
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<td>Glen Dale</td>
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<td>83rd</td>
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<td>Maynard, Mark (R)</td>
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<td>80th – 83rd</td>
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<td>Mullins, Jeff (R)</td>
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<td>Shady Spring</td>
<td>Insurance</td>
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<td>Ojeda II, Richard (D)</td>
<td>7th</td>
<td>Holden</td>
<td>Retired US Army/JROTC Instructor</td>
<td>83rd</td>
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<td>76th – 78th (House); 79th – 83rd</td>
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<td>Prezioso, Roman (D)</td>
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Note: Senator Kent Leonhardt served during the January 11, 2017 Organizational Session but resigned January 15, 2017 to become Commissioner of Agriculture. Senator Clements was appointed January 28, 2017 and took the oaths of office on February 2, 2017.
<table>
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<tr>
<td>Romano, Mike (D)</td>
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<td>Davis</td>
<td>Coal Miner</td>
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<td>Swope, Chandler (R)</td>
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<td>Bluefield</td>
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<td>83rd</td>
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<td>Kingwood</td>
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<td>Lawyer</td>
<td>82nd – 83rd</td>
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</table>
AGRICULTURE AND NATURAL RESOURCES

Allen Evans, Chair (Agriculture), Bill Hamilton, Chair (Natural Resources), Roger Romine, Vice Chair (Agriculture), George Ambler, Vice Chair, (Natural Resources), Isaac Sponaugle, Minority Chair, (Agriculture), Ralph Rodighiero, Minority Chair, (Natural Resources), Robert Thompson, Minority Vice Chair (Agriculture), Ken Hicks, Minority Vice Chair (Natural Resources), Anderson, Atkinson, Cooper, Folk, Hanshaw, Harshbarger, Lewis, C. Miller, Moore, Overington, Summers, Wagner, Baldwin, Brewer, Eldridge, Love, Lynch

BANKING AND INSURANCE

Cindy Frich, Chair (Banking), Steve Westfall, Chair (Insurance), Jill Upson, Vice Chair (Banking), Brad White, Vice Chair, (Insurance), Justin Marcum, Minority Chair, (Banking), Bill Hartman, Minority Chair (Insurance), Chad Lovejoy, Minority Vice Chair, (Banking), Andrew Robinson, Minority Vice Chair, (Insurance) Arvon, Capito, Criss, Deem, A. Evans, Householder, McGeehan, Nelson, O’Neal, C. Romine, Shott, Walters, Bates, Iaquinta, Isner, Rowe, Sponaugle

EDUCATION

Paul Espinosa, Chair, Joe Statler, Vice Chair, Ricky Moye, Minority Chair, Sean Hornbuckle, Minority Vice Chair, Blair, Cooper, Dean, Folk, Harshbarger, Higginbotham, Kelly, Rohrbach, R. Romine, Rowan, Upson, Wagner, Westfall, Wilson, Baldwin, E. Evans, Hicks, Pyles, Rodighiero, Rowe, Thompson
ENERGY

Bill Anderson, Chair, John Kelly, Vice Chair (Oil and Gas), Mark Zatezalo, Vice Chair (Coal), David Pethtel, Minority Chair, Jeff Eldridge, Minority Vice Chair, Hamilton, Harshbarger, Higginbotham, Kessinger, Martin, Maynard, Paynter, R. Romine, Statler, Storch, Sypolt, Upson, Ward, Boggs, Caputo, Hicks, Lynch, Marcum, Miley, Phillips

ENROLLED BILLS

Roger Hanshaw, Chair, Steve Westfall, Vice Chair, Lane, Marcum, Pushkin

FINANCE

Eric Nelson, Chair, Eric Householder, Vice Chair, Brent Boggs, Minority Chair, Mick Bates, Minority Vice Chair, Ambler, Anderson, Butler, Cowles, Ellington, Espinosa, A. Evans, Frich, Gearheart, Hamilton, C. Miller, Storch, Walters, Westfall, Barrett, Hartman, Longstreth, Moye, Pethtel, Rowe, Sponaugle

GOVERNMENT ORGANIZATION

Gary Howell, Chair, Lynne Arvon, Vice Chair, Michael Ferro, Minority Chair, Phil Diserio, Minority Vice Chair, Atkinson, Criss, Hamrick, Hill, Lewis, Martin, Maynard, McGeehan, Paynter, Queen, C. Romine, Sypolt, Ward, Brewer, Caputo, Eldridge, Iaquinta, Lynch, Marcum, Pyles, Williams

HEALTH AND HUMAN RESOURCES

Joe Ellington, Chair, Amy Summers, Vice Chair, Linda Longstreth, Minority Chair, Mike Pushkin, Minority Vice Chair, Arvon, Atkinson, Butler, Cooper, Criss, Dean, Hill, Hollen, Householder, Queen, Rohrbach, Rowan, Sobonya, White, Baldwin, Bates, Fleischauer, Fluharty, Iaquinta, Love, Rodighiero
HOUSE OF DELEGATES COMMITTEES

INDUSTRY AND LABOR

Tom Fast, Chair, Geoff Foster, Vice Chair, Scott Brewer Chair, Phil Isner, Vice Chair, Blair, Cowles, Dean, Ellington, N. Foster, Harshbarger, Hill, Householder, Overington, Shott, Sobonya, Statler, Ward, White, Caputo, Diserio, Ferro, Fluharty, Hicks, R. Miller, Pushkin

INTERSTATE COOPERATION

Erikka Storch, Chair, Danny Hamrick, Vice Chair, Ellington, Higginbotham, R. Romine, Barrett, Ferro

JUDICIARY

John Shott, Chair, Roger Hanshaw, Vice Chair, Barbara Fleischauer, Minority Chair, Shawn Fluharty, Minority Vice Chair, Capito, Deem, Fast, G. Foster, N. Foster, Hollen, Kessinger, Lane, Moore, O’Neal, Overington, Sobonya, Summers, Zatezalo, Byrd, Canestraro, Isner, Lovejoy, R. Miller, Pushkin, Robinson

PENSIONS AND RETIREMENT

Ron Walters, Chair, Mike Folk, Vice Chair, Anderson, Hamilton, O’Neal, E. Evans, Pethtel

POLITICAL SUBDIVISIONS

Erikka Storch, Chair, Saira Blair, Vice Chair, Rodney Miller, Minority Chair, John Williams, Minority Vice Chair, Anderson, Cowles, Folk, G. Foster, Gearheart, Hamrick, Hanshaw, Householder, Lane, Queen, Rohrbach, Statler, Summers, Barrett, Byrd, Canestraro, Longstreth, Moye, Pyles, Robinson, Rowe

PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

Joe Ellington, Chair, Kayla Kessinger, Vice Chair, Frich, Hollen, Sobonya, Storch, Upson, Baldwin, Bates, Boggs, Hornbuckle

[XXIV]
HOUSE OF DELEGATES COMMITTEES

ROADS AND TRANSPORTATION

Marty Gearheart, Chair, Danny Hamrick, Vice Chair, Mike Caputo, Minority Chair, Ed Evans, Minority Vice Chair, Ambler, Butler, Capito, Criss, Dean, Espinosa, Fast, Howell, Lane, Maynard, Paynter, Rohrbach, Statler, Wagner, Boggs, Canestraro, Diserio, Hartman, Moye, Phillips, Williams

RULE MAKING REVIEW

Kelli Sobonya, Chair, Cindy Frich, Vice Chair, G. Foster, Hanshaw, Fleischauer, Rowe

RULES

Tim Armstead, Chair, Anderson, Cowles, Ellington, Espinosa, Hanshaw, Howell, C. Miller, Nelson, O’Neal, Overington, Shott, Sobonya, Boggs, Caputo, Ferro, Fleischauer, Miley, Moye, Pethtel

SENIOR CITIZEN ISSUES

Ruth Rowan, Chair, Matt Rohrbach, Vice Chair, Dana Lynch, Minority Chair, Rodney Pyles, Minority Vice Chair, A. Evans, Kelly, Lewis, Martin, Maynard, Paynter, Queen, C. Romine, R. Romine, Sypolt, Walters, White, Zatezalo, Boggs, Eldridge, Ferro, Fleischauer, Love, Lovejoy, Moye, Pethtel

SMALL BUSINESS AND ECONOMIC DEVELOPMENT

Jordan Hill, Chair, Rick Atkinson, Vice Chair, Larry Rowe, Minority Chair, Jason Barrett, Minority Vice Chair, Blair, Espinosa, N. Foster, Higginbotham, Kelly, Kessinger, Martin, C. Miller, Moore, Storch, Ward, Westfall, Wilson, Zatezalo, Bates, Byrd, Marcum, Miley, Phillips, Sponaugle, Thompson
VETERANS’ AFFAIRS AND HOMELAND SECURITY

Jim Butler, Chair (Homeland Security), Roy Cooper, Chair (Veterans’ Affairs), Pat McGeehan, Vice Chair (Homeland Security), Danny Wagner, Vice Chair (Veterans’ Affairs), Andrew Byrd, Minority Chair (Homeland Security), Richard Iaquinta, Minority Chair (Veterans’ Affairs), Stephen Baldwin, Minority, Vice Chair (Homeland Security), Joe Canestraro, Minority Vice Chair (Veterans’ Affairs) Arvon, Higginbotham, Hollen, Howell, Kelly, Kessinger, Lewis, Paynter, Rowan, Sypolt, Upson, Wilson, Ferro, Fleischauer, Longstreth, Lynch, Pushkin
SENATE COMMITTEES

COMMITTEES OF THE SENATE
Regular Session, 2017

STANDING

AGRICULTURE AND RURAL DEVELOPMENT

Senators Sypolt (Chair), Rucker (Vice Chair), Clements, Cline, Mann, Maynard, Smith, Beach, Miller, Ojeda, Woelfel.

BANKING AND INSURANCE

Senators Gaunch (Chair), Azinger (Vice Chair), Clements, Hall, Mann, Maroney, Mullins, Swope, Facemire, Palumbo, Prezioso, Romano, Woelfel.

CONFIRMATIONS

Senators Boley (Chair), Ferns (Vice Chair), Azinger, Blair, Boso, Gaunch, Miller, Plymale, Prezioso.

ECONOMIC DEVELOPMENT

Senators Maroney (Chair), Maynard (Vice Chair), Blair, Boso, Cline, Mann, Smith, Swope, Takubo, Jeffries, Miller, Stollings, Romano, Woelfel.

EDUCATION

Senators Mann (Chair), Karnes (Vice Chair), Azinger, Boley, Hall, Maynard, Rucker, Swope, Trump, Beach, Plymale, Romano, Stollings, Unger.

ENERGY, INDUSTRY AND MINING

Senators Smith (Chair), Sypolt (Vice Chair), Blair, Boley, Cline, Ferns, Gaunch, Mullins, Swope, Facemire, Jeffries, Ojeda, Woelfel.
SENATE COMMITTEES

ENROLLED BILLS

Senators Maynard (Chair), Azinger, Gaunch, Palumbo, Presiozo.

FINANCE

Senators Hall (Chair), Mullins (Vice Chair), Blair, Boley, Boso, Ferns, Gaunch, Mann, Maroney, Sypolt, Takubo, Facemire, Palumbo, Plymale, Prezioso, Stollings, Unger.

GOVERNMENT ORGANIZATION

Senators Blair (Chair), Gaunch (Vice Chair), Boso, Clements, Maroney, Smith, Sypolt, Takubo, Weld, Facemire, Jeffries, Miller, Palumbo, Woelfel.

HEALTH AND HUMAN RESOURCES

Senators Takubo (Chair), Maroney (Vice Chair), Azinger, Clements, Karnes, Rucker, Trump, Weld, Palumbo, Plymale, Prezioso, Stollings, Unger.

INTERSTATE COOPERATION

Senators Cline (Chair), Azinger (Vice Chair), Maroney, Maynard, Sypolt, Palumbo, Unger.

JUDICIARY

Senators Trump (Chair), Weld (Vice Chair), Azinger, Clements, Cline, Ferns, Karnes, Maynard, Rucker, Smith, Swope, Beach, Jeffries, Miller, Ojeda, Romano, Woelfel.

MILITARY

Senators Weld (Chair), Boley (Vice Chair), Azinger, Clements, Cline, Sypolt, Facemire, Ojeda, Palumbo.
SENATE COMMITTEES

NATURAL RESOURCES

Senators Maynard (Chair), Mann (Vice Chair), Cline, Karnes, Rucker, Smith, Sypolt, Takubo, Beach, Facemire, Prezioso, Stollings, Woelfel.

PENSIONS

Senators Gaunch (Chair), Hall (Vice Chair), Maroney, Mullins, Weld, Plymale, Romano.

RULES

Senators Carmichael (Chair), Blair, Boley, Ferns, Hall, Sypolt, Trump, Palumbo, Prezioso, Plymale, Stollings.

TRANSPORTATION AND INFRASTRUCTURE

Senators Boso (Chair), Swope (Vice Chair), Gaunch, Maroney, Maynard, Rucker, Beach, Jeffries, Plymale.

SELECT COMMITTEE ON TAX REFORM

Senators Karnes (Chair), Blair (Vice Chair), Ferns, Boso, Gaunch, Jeffries, Plymale.

COMMITTEE ON THE WORKFORCE

Senators Swope (Chair), Weld (Vice Chair), Boso, Karnes, Mullins, Rucker, Smith, Beach, Jeffries, Ojeda, Stollings.
AN ACT to amend and reenact §64-3-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Environmental Protection to promulgate a legislative rule relating to awarding of matching grants for local litter control programs; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to alternative emission limitations during startup, shutdown and maintenance operations; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to permits for construction, modification, relocation and operation of stationary sources of air pollutants, notification requirements, administrative updates, temporary permits, general permits, permission to commence construction and procedures for evaluation; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to permits for construction and major modification of major stationary sources for the prevention of significant deterioration of air quality; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from hazardous waste treatment, storage and disposal facilities; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality
standards; and authorizing the Department of Environmental Protection to promulgate a legislative rule relating to voluntary remediation and redevelopment.

Be it enacted by the Legislature of West Virginia:

That §64-3-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF ENVIRONMENTAL PROTECTION TO PROMULGATE LEGISLATIVE RULES.

§64-3-1. Department of Environmental Protection.

(a) The legislative rule filed in the State Register on August 25, 2016, authorized under the authority of section three, article fifteen-a, chapter twenty-two of this code, relating to the Department of Environmental Protection (awarding of matching grants for local litter control programs, 33 CSR 41), is authorized.

(b) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (alternative emission limitations during startup, shutdown and maintenance operations, 45 CSR 01), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section eleven, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (permits for construction, modification, relocation and operation of stationary sources of air pollutants, notification requirements, administrative updates, temporary permits, general permits, permission to commence construction and procedures for evaluation, 45 CSR 13), is authorized.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section
four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (permits for construction and major modification of major stationary sources for the prevention of significant deterioration of air quality, 45 CSR 14), is authorized.

(e) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (standards of performance for new stationary sources, 45 CSR 16), is authorized.

(f) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (control of air pollution from hazardous waste treatment, storage and disposal facilities, 45 CSR 25), is authorized.

(g) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (emission standards for hazardous air pollutants, 45 CSR 34), is authorized.

(h) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section four, article five, chapter twenty-two of this code, relating to the Department of Environmental Protection (ambient air quality standards, 45 CSR 08), is authorized.

(i) The legislative rule filed in the State Register on August 25, 2016, authorized under the authority of section three, article twenty-two, chapter twenty-two of this code, relating to the Department of Environmental Protection (voluntary remediation and redevelopment, 60 CSR 03), is authorized.
CHAPTER 141

(Com. Sub. for S. B. 125 - By Senator Maynard)

[Passed April 4, 2017; in effect from passage.]
[Approved by the Governor on April 20, 2017.]

AN ACT to amend and reenact §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as amended, all relating generally to promulgation of legislative rules by the Department of Health and Human Resources and the Health Care Authority; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain agencies to promulgate certain legislative rules with amendments recommended by the Legislature; authorizing the Health Care Authority to promulgate a legislative rule relating to the Hospital Assistance Grant Program; authorizing the Health Care Authority to promulgate a legislative rule relating to exemption from certificate of need; authorizing the Health Care Authority to promulgate a legislative rule relating to Rural Health Systems Grant Program; authorizing the Health Care Authority to promulgate a legislative rule relating to certificate of need; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to expedited partner therapy; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clinical laboratory technician and technologist licensure and certification; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to clandestine drug laboratory remediation; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to medication-assisted treatment–opioid treatment programs; and authorizing the Department of Health and Human Resources to promulgate a
legislative rule relating to medication-assisted treatment—office-based, medication-assisted treatment.

Be it enacted by the Legislature of West Virginia:

That §64-5-1 and §64-5-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.

§64-5-1. Health Care Authority.

(a) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section eight, article twenty-nine-b, chapter sixteen of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2016, relating to the Health Care Authority (Hospital Assistance Grant Program, 65 CSR 31), is authorized.

(b) The legislative rule filed in the State Register on August 22, 2016, authorized under the authority of section four, article two-d, chapter sixteen of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 6, 2017, relating to the Health Care Authority (exemption from certificate of need, 65 CSR 29), is authorized.

(c) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section four, article two-d, chapter sixteen of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2016, relating to the Health Care Authority (Rural Health Systems Grant Program, 65 CSR 30), is authorized.
(d) The legislative rule filed in the State Register on August 23, 2016, authorized under the authority of section four, article two-d, chapter sixteen of this code, modified by the Health Care Authority to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2016, relating to the Health Care Authority (certificate of need, 65 CSR 32), is authorized.

§64-5-2. Department of Health and Human Resources.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section five, article four-f, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 6, 2016, relating to the Department of Health and Human Resources (expedited partner therapy, 64 CSR 103), is authorized.

(b) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section ten, article five-j, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 6, 2016, relating to the Department of Health and Human Resources (clinical laboratory technician and technologist licensure and certification, 64 CSR 57), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section three, article eleven, chapter sixty-a of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on October 11, 2016, relating to the Department of Health and Human Resources (clandestine drug laboratory remediation, 64 CSR 92), is authorized with the following amendments:
On page five, section 6.1.c., by striking out subdivision 6.1.c. in its entirety and inserting in lieu thereof a new subdivision 6.1.c. to read as follows:

6.1.c. In the case of a hotel, motel, or apartment building, all units or areas immediately adjacent to a unit or area within the hotel, motel, or apartment unit that contained a clandestine drug laboratory and that is under the control of the residential property owner must be secured, vacated and tested in accordance with this rule.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section thirteen, article five-y, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Department of Health and Human Resources (medication-assisted treatment—opioid treatment programs, 69 CSR 11), is authorized with the following amendments:

On page sixteen, section 8.4.e., after the word “shall” by striking out the words “practice 90 percent of the hours in which the opioid treatment program is dispensing or administering medications each week in order to”;

And,

On page seventeen, section 8.5.d., after the word “operation” by inserting the words “when medication is dispensed or administered”.

(e) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section one, article five-y, chapter sixteen of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Department of Health and Human
Resources (medication-assisted treatment—office-based medication assisted treatment, 69 CSR 12), is authorized with the following amendments:

On page two, after section 2.8. by inserting a new section 2.9. to read as follows:

2.9. Coordination of Care Agreement – An agreement signed by the physician, counsel and patient allowing open communication and the exchange of health information between the indicated providers to ensure the patient is provided comprehensive and holistic treatment for substance use disorder, when medical treatment and counselling services are not being treated within the same program.;

And by renumbering the remaining sections;

On page four, after section 2.24. by inserting a new section 2.25. to read as follows:

2.25. Maintenance Treatment – treatment following induction and stabilization phases of treatment, and means the prescribing of a partial agonist treatment medication at stable dosage levels for a period in excess of twenty-one days in the treatment of an individual for opioid use disorder.;

And by renumbering the remaining sections;

On page fourteen, section 7.5.b., after the words “primary counselor” by inserting the words “or counseling service”;

On page twenty-one, section 13.3.b.3., after the word “patient” by inserting the words “related to the treatment being provided”;

On page twenty-five, section 19.5., after the words “program staff” by inserting a period and striking out the remainder of the sentence;
On page forty-seven, section 29.6., after the period by inserting the words “Refer to section 32.5 of this rule for administrate withdrawal for female patients with a positive pregnancy screen.”;

On page forty-eight, section 30.6., after the period by inserting the words “Refer to section 32.5 of this rule for administrate withdrawal for female patients with a positive pregnancy screen.”;

And,

On page fifty-two, section 32.5.f., by striking out the section and inserting in lieu thereof a new section to read as follows:

32.5.f. If a pregnant patient is discharged, the OBMAT program shall identify the physician to whom the patient is being discharged. If a provider is not available, a referral shall be made to a Comprehensive Behavioral Health Center. This information shall be retained in the clinical record.

CHAPTER 142

(Com. Sub. for S. B. 116 - By Senator Maynard)

[Passed April 8, 2017; in effect from passage.]
[Approved by the Governor on April 18, 2017.]

AN ACT to amend and reenact §64-6-1, §64-6-2 and §64-6-3 of the Code of West Virginia, 1931, as amended, all relating to authorizing certain Department of Military Affairs and Public Safety legislative rules; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing
certain agencies to promulgate legislative rules with various amendments recommended by the Legislature; authorizing the Governor’s Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law-enforcement training and certification standards; authorizing the State Fire Marshal to promulgate a legislative rule relating to the regulation of fireworks and related explosive material; and directing the Division of Justice and Community Services to promulgate a legislative rule relating to the William R. Laird, IV- Second Chance Driver’s License Program.

Be it enacted by the Legislature of West Virginia:

That §64-6-1, §64-6-2 and §64-6-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY TO PROMULGATE LEGISLATIVE RULES.

§64-6-1. Governor’s Committee on Crime, Delinquency and Correction.

The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section three, article twenty-nine, chapter thirty of this code, modified by the Governor’s Committee on Crime, Delinquency and Correction to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2016, relating to the Governor’s Committee on Crime, Delinquency and Correction (law-enforcement training and certification standards, 149 CSR 02), is authorized with the following amendments:

On page 10, subdivision 8.2.a., by striking out each of the two uses of the underlined word “must” and inserting in lieu thereof the word “shall”;

On page 16, subdivision 14.1.b., after the underlined word “certification” by inserting the word “holder”;
16 And,

17 On page 16, subdivision 14.1.b, after the underlined word “against” by striking the word “it” and inserting in lieu thereof the words “him or her”.

§64-6-2. State Fire Marshal.

1 The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section eight, article three-e, chapter twenty-nine of this code, modified by the State Fire Marshal to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2016, relating to the State Fire Marshal (regulation of fireworks and related explosive materials, 103 CSR 04), is authorized with the following amendments:

10 On page 5, subsection 3.44, after the word “issued” by deleting the word “a”;

12 On page 6, paragraph 5.1.b.6, by striking out the following “Require Manager(s) of any CFRS to complete and pass a limited online safety training approved by the State Fire Commission. At least one (1) certificate shall be submitted” and inserting in lieu thereof the words “Submit at least one (1) certificate”;

18 On page 7, subdivision 5.1.o, by striking the words “this article” and inserting in lieu thereof the word “the law or this rule”;

21 On page 9, subdivision 5.4.a, after the words “jurisdiction over” by inserting the word “the”;

23 On page 11, subdivision 8.2.f, by striking out the words “Applicants shall be required to provide” and inserting in lieu thereof the word “Provide”;
On page 12, paragraph 8.3.a.2, by striking out the words “Pay the required” and inserting in lieu thereof the word “A”;

On page 12, subsection 9.1, after the words “engaged in”, by inserting the word “the”;

On page 14, paragraph 10.1.a.3, after the words “certificate and” by inserting the word “meets”;

On page 15, subdivision 11.4.c, by adding the word “or” after the semicolon;

On page 15, subdivision 11.7.a, after the word “alcohol” by striking the period and adding a semicolon;

On page 15, subdivision 11.7.b, after the word “substance” by striking the period and adding a semicolon;

On page 15, subdivision 11.7.c, after the word “drug” by striking the period and adding a semicolon;

On page 15, subdivision 11.7.d, after the word “drug” by striking the period and adding a semicolon and the word “or”;

And,

On page 15, subdivision 11.6.f, by striking out the subdivision number and inserting in lieu thereof a new subsection number 11.8.

§64-6-3. Division of Justice and Community Services.

The Legislature directs the Division of Justice and Community Services, pursuant to the authority given to the division in section ten, article seven, chapter seventeen-b of this code, to promulgate the legislative rule filed in the State Register by the Division on February 17, 2017, relating to the division (William R. Laird IV – Second Chance Driver’s License Program, 224 CSR 1), with the following amendments:
On page 2, by renumbering subdivision “2.1” to “2.9”; And, On page 8, by correcting the Code date from “1131” to “1931”.

CHAPTER 143

(Com. Sub. for S. B. 127 - By Senator Maynard)

[Passed March 24, 2017; in effect from passage.]
[Approved by the Governor on April 6, 2017.]

AN ACT to amend and reenact §64-7-1, §64-7-2, §64-7-3, §64-7-4 and §64-7-5 of the Code of West Virginia, 1931, as amended, all relating to authorizing certain Department of Revenue legislative rules; repealing certain legislative, procedural or interpretive rules promulgated by certain agencies and boards under the Department of Revenue which are no longer authorized or are obsolete; authorizing the Insurance Commissioner to promulgate a legislative rule relating to adoption of a valuation manual; repealing the Office of the Insurance Commissioner legislative rule relating to utilization management; repealing the Office of the Insurance Commissioner legislative rule relating to Medicare supplement insurance coverage; authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing; authorizing the Racing Commission to promulgate a legislative rule relating to pari-mutuel wagering; authorizing the Lottery Commission to promulgate a legislative rule relating to limited video lottery; repealing the Tax Division legislative rule relating to listing of interests in natural resources for purposes of first statewide appraisal; repealing the Tax Division legislative rule relating to guidelines for assessors to assure fair and uniform nonutility personal property values; repealing the
Tax Division legislative rule relating to review by circuit court on certiorari; repealing the Tax Division legislative rule relating to review of appraisals by the county commission sitting as an administrative appraisal review board; repealing the Tax Division legislative rule relating to additional review and implementation of property appraisals; repealing the Tax Division legislative rule relating to review by circuit court on certiorari; repealing the Tax Division legislative rule relating to revision of levy estimates; repealing the Tax Division legislative rule relating to inheritance and transfer tax; repealing the Tax Division legislative rule relating to annual tax on incomes of certain carriers; repealing the Tax Division legislative rule relating to the telecommunications tax; repealing the Tax Division legislative rule relating to tax credit for employing former members of Colin Anderson Center; repealing the Tax Division legislative rule relating to tax credits for new value-added, wood manufacturing facilities; repealing the Tax Division legislative rule relating to tax credits for new steel, aluminum and polymer manufacturing operations; repealing the Tax Division legislative rule relating to the business investment and jobs expansion tax credit, corporation headquarters relocation tax credit and small business tax credit; repealing the Tax Division legislative rule relating to appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes; repealing the Banking Commissioner legislative rule relating to the West Virginia Consumer Credit and Protection Act; and repealing the Banking Commissioner procedural rule relating to West Virginia Board of Banking and Financial Institutions.

*Be it enacted by the Legislature of West Virginia:*

That §64-7-1, §64-7-2, §64-7-3, §64-7-4 and §64-7-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF REVENUE TO PROMULGATE LEGISLATIVE RULES.**
§64-7-1. Insurance Commissioner.

1 The legislative rule filed in the State Register on August 22, 2016, authorized under the authority of section ten, article two, chapter thirty-three of this code, relating to the Insurance Commissioner (adoption of valuation manual, 114 CSR 98), is authorized.

6 (b) The legislative rule effective on May 16, 1997, authorized under the authority of section four, article twenty-five-a, chapter thirty-three of this code, relating to the Office of the Insurance Commissioner (utilization management, 114 CSR 51), is repealed.

(c) The legislative rule effective on December 28, 1981, authorized under the authority of section ten, article two, chapter thirty-three of this code, relating to the Office of the Insurance Commissioner (Medicare supplement insurance coverage, 114 CSR 17), is repealed.

§64-7-2. Racing Commission.

(a) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section two, article twenty-three, chapter nineteen of this code, modified by the Racing Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 19, 2016, relating to the Racing Commission (thoroughbred racing, 178 CSR 01), is authorized with the following amendment:

On pages 91 through 93, by striking out all of subdivision 49.3.m. and inserting in lieu thereof a new subdivision 49.3.m. to read as follows:

49.3.m. Multiple Medication Violations. A trainer who receives a penalty for a medication violation based upon a horse testing positive for a Class 1-5 medication with a Penalty Class A- C, as provided in the Uniform Classification Guidelines for Foreign Substances as promulgated by the Association of Racing Commissioners
18 International (RCI), Version 12.0 (revised April 8, 2016), set forth in table 178-1D at the end of this rule, shall be assigned points as follows:

<table>
<thead>
<tr>
<th>Penalty Class</th>
<th>Points if Controlled Therapeutic Substance</th>
<th>Points if Non-Controlled Substance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class A</td>
<td>N/A</td>
<td>6</td>
</tr>
<tr>
<td>Class B</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Class C</td>
<td>½ for first violation with an additional ½ point for each additional violation within 365 days. Points for NSAID violations only apply when the primary threshold of the NSAID is exceeded. Points are not to be separately assigned for a stacking violation.</td>
<td>1 for first violation with an additional ½ point for each additional violation within 365 days.</td>
</tr>
<tr>
<td>Class D</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

49.3.m.1. If the stewards or the Commission determine that the violation is due to environmental contamination, they may assign lesser or no points against the trainer based upon the specific facts of the case.

49.3.m.2. The points assigned to a medication violation by the stewards’ or the Commission’s ruling shall be included in the Association of Racing Commissioners International official database. The Association of Racing Commissioners International shall record points consistent with the table set forth under subdivision 49.3.m. including, when appropriate, a designation that the points have been suspended for the medication violation. Points assigned by such regulatory ruling shall reflect, in the case of multiple positive tests as described in paragraph 49.3.m.3, whether
they shall constitute a single violation. The stewards’ or the Commission’s ruling shall be posted on the official website of the Commission and within the official database of the Association of Racing Commissioners International. If an appeal is pending, that fact shall be noted in such ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.

49.3.m.3. A trainer’s cumulative points for violations in all racing jurisdictions shall be maintained by the Association of Racing Commissioners International. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer’s official Association of Racing Commissioners International record and shall be considered by the stewards or the Commission in their determination to subject the trainer to the mandatory enhanced penalties as provided in this rule.

49.3.m.4. Multiple positive tests for the same medication incurred by a trainer prior to delivery of official notice by the stewards or the Commission may be treated as a single violation. In the case of a positive test indicating multiple substances found in a single post-race sample, the stewards or the Commission may treat each substance found as an individual violation for which points will be assigned, depending upon the facts and circumstances of the case.

49.3.m.5. The official Association of Racing Commissioners International record shall be used to advise the stewards or the Commission of a trainer’s past record of violations and cumulative points. Nothing in this rule shall be construed to confer upon a trainer the right to appeal a violation for which the remedies have been exhausted or for which the appeal time has expired as provided by West Virginia Code §§ 19-23-16(c) and 19-23-17.

49.3.m.6. The stewards or the Commission shall consider all points for violations in all racing jurisdictions as contained in the trainers’ official Association of Racing Commissioners International record when determining
whether the mandatory enhancements provided in this rule shall be imposed.

49.3.m.7. In addition to the penalty for the underlying offense, the following enhancements shall be imposed upon a trainer based upon the cumulative points contained in his or her official Association of Racing Commissioners International record:

<table>
<thead>
<tr>
<th>Points</th>
<th>Suspension in days</th>
</tr>
</thead>
<tbody>
<tr>
<td>5-5.5</td>
<td>15 to 30</td>
</tr>
<tr>
<td>6-8.5</td>
<td>45 to 60</td>
</tr>
<tr>
<td>9-10.5</td>
<td>90 to 180</td>
</tr>
<tr>
<td>11 or more</td>
<td>180 to 360</td>
</tr>
</tbody>
</table>

49.3.m.8. The multiple medication violation penalty system is not a substitute for the penalty system otherwise set forth in this rule and is intended to be an additional uniform penalty when a permit holder:

49.3.m.8.A. Has more than one violation for the relevant time period; and

49.3.m.8.B. Exceeds the permissible number of points.

49.3.m.9. The stewards and the Commission shall consider aggravating and mitigating factors, including the trainer’s prior record for medication violations, when determining the appropriate penalty for the underlying offense. The multiple medication violation penalty is intended to be a separate and additional penalty for a pattern of violations.

49.3.m.10. The suspension periods as provided in the table set forth under paragraph 49.3.m.6. shall run
consecutive to any suspension imposed for the underlying offense.

49.3.m.11. The stewards’ or the Commission’s ruling shall distinguish between the penalty for the underlying offense and any enhancement based upon a stewards’ or Commission review of a trainer’s cumulative points and regulatory record, which may be considered an aggravating factor in a case.

49.3.m.12. Points shall expire as follows:

<table>
<thead>
<tr>
<th>Penalty Classification</th>
<th>Time to Expungement</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>3 years</td>
</tr>
<tr>
<td>B</td>
<td>2 years</td>
</tr>
<tr>
<td>C</td>
<td>1 year</td>
</tr>
</tbody>
</table>

49.3.m.-13. In the case of a medication violation that results in a suspension, any points assessed expire on the anniversary date of the date the suspension is completed.

(b) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section six, article twenty-three, chapter nineteen of this code, modified by the Racing Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 19, 2016, relating to the Racing Commission (pari-mutuel wagering, 178 CSR 05), is authorized.

§64-7-3. Lottery Commission.

The legislative rule filed in the State Register on August 22, 2016, authorized under the authority of section four hundred two, article twenty-two-b, chapter twenty-nine of
this code, modified by the Lottery Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 7, 2016, relating to the Lottery Commission (limited video lottery, 179 CSR 5), is authorized with the following amendments:

On page 4, subdivision 2.12.1., after the words “straight-line feet from”, by inserting the words “the closest exterior wall of”;

On page 4, subdivision 2.12.1., after the word “engine”, by inserting the words “as determined by the commission during the license application review”;

On page 4, paragraph 2.12.2.a., following the designation “(ii)”, by striking out the word “with” and inserting in lieu thereof the word “has”;

On page 4, paragraph 2.12.2.b., following the words “requirement in”, by striking out the words “section 2.12.2.” and inserting in lieu thereof the words “this subdivision 2.12.2. of this subsection.”;

On page 4, after paragraph 2.12.2.b., before the words “The provisions of any” by inserting “2.12.3.”;

And,

On page 4, subdivision 2.12.3. by striking out “2.12”.

§64-7-4. Tax Division.

(a) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (listing of interests in natural resources for purposes of first statewide appraisal, 110 CSR 1B), is repealed.

(b) The legislative rule effective on May 13, 1987, authorized under the authority of section twenty-nine-a, article one-a, chapter eleven of this code, relating to the Tax
Division (guidelines for assessors to assure fair and uniform nonutility personal property values, 110 CSR 1C), is repealed.

(c) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review by circuit court on certiorari, 110 CSR 1D), is repealed.

(d) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review of appraisals by the county commission sitting as an administrative appraisal review board, 110 CSR 1E), is repealed.

(e) The legislative rule effective on May 13, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (additional review and implementation of property appraisals, 110 CSR 1F), is repealed.

(f) The legislative rule effective on May 13, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review by circuit court on certiorari, 110 CSR 1G), is repealed.

(g) The legislative rule effective on June 29, 1964, authorized under the authority of article one, chapter eleven of this code, relating to the Tax Division (revision of levy estimates, 110 CSR 8), is repealed.

(h) The legislative rule effective on September 16, 1966, authorized under the authority of article ten, chapter eleven of this code, relating to the Tax Division (inheritance and transfer tax, 110 CSR 11), is repealed.

(i) The legislative rule effective on January 1, 1974, authorized under the authority of section five-a, article ten,
chapter eleven of this code, relating to the Tax Division (annual tax on incomes of certain carriers, 110 CSR 12A), is repealed.

(j) The legislative rule effective on April 4, 1988, authorized under the authority of section five, article ten, chapter eleven of this code, relating to the Tax Division (telecommunications tax, 110 CSR 13B), is repealed.

(k) The legislative rule effective on May 1, 1996, authorized under the authority of section three, article thirteen-i, chapter eleven of this code, relating to the Tax Division (tax credit for employing former members of Colin Anderson Center, 110 CSR 13I), is repealed.

(l) The legislative rule effective on May 1, 1999, authorized under the authority of section seven, article thirteen-m, chapter eleven of this code, relating to the Tax Division (tax credits for new value-added, wood manufacturing facilities, 110 CSR 13M), is repealed.

(m) The legislative rule effective on May 1, 1999, authorized under the authority of section seven, article thirteen-n, chapter eleven of this code, relating to the Tax Division (tax credits for new steel, aluminum and polymer manufacturing operations, 110 CSR 13N), is repealed.

(n) The legislative rule effective on May 1, 1995, authorized under the authority of section five, article ten, chapter eleven of this code, relating to the Tax Division (business investment and jobs expansion tax credit, corporation headquarters relocation tax credit and small business tax credit, 110 CSR 13C), is repealed.

(o) The legislative rule effective on April 4, 1988, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes, 110 CSR 1), is repealed.
§64-7-5. Banking Commissioner.

(a) The legislative rule effective on April 23, 1982, authorized under the authority of section four, article three, chapter thirty-one-a of this code, relating to the Banking Commissioner (West Virginia Consumer Credit and Protection Act, 106 CSR 8), is repealed.

(b) The procedural rule effective on January 10, 1975, authorized under the authority of section two, article three, chapter thirty-one-a of this code, relating to the Banking Commissioner (West Virginia Board of Banking and Financial Institutions, 107 CSR 5), is repealed.

CHAPTER 144
(Com. Sub. for H. B. 2219 - By Delegate Sobonya)

[Passed April 8, 2017; in effect from passage.]
[Approved by the Governor on April 25, 2017.]

certain agencies to promulgate certain legislative rules with amendments recommended by the Legislature; directing various agencies to amend and promulgate certain legislative rules; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to dangerous wild animals; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to livestock care standards; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to captive cervid; authorizing the Board of Architects to promulgate a legislative rule relating to the registration of architects; authorizing the Athletic Commission to promulgate a legislative rule relating to administrative rules of the West Virginia State Athletic Commission; authorizing the Athletic Commission to promulgate a legislative rule relating to regulation of mixed martial arts; authorizing the Auditor’s Office to promulgate a legislative rule relating to standards for requisitions for payment issued by state officers on the Auditor; authorizing the Auditor’s Office to promulgate a legislative rule relating to the procedure for local levying bodies to apply for permission to extend time to meet as levying body; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to qualifications, training, examination and certification of instructors in barbering and cosmetology; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to licensing schools of barbering, cosmetology, nail technology and aesthetics; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to operational standards for schools of barbering, cosmetology, hair styling, nail technology and aesthetics; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to the operation of barber, beauty, nail and aesthetic shops/salons and schools of barbering and beauty culture; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to a schedule of fees; authorizing the Board of Barbers and
Cosmetologists to promulgate a legislative rule relating to continuing education; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to barber apprenticeships; authorizing the Board of Barbers and Cosmetologists to promulgate a legislative rule relating to waxing specialists; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensed professional counselor fees; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensed professional counselor license renewal and continuing professional education requirements; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapist fees; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapist license renewal and continuing professional education requirements; authorizing the Dangerous Wild Animal Board to promulgate a legislative rule relating to dangerous wild animals; authorizing the Board of Dentistry to promulgate a legislative rule relating to the board; authorizing the Board of Medicine to promulgate a legislative rule relating to licensing and disciplinary procedures: physicians; podiatrists; authorizing the Board of Medicine to promulgate a legislative rule relating to licensure, disciplinary and complaint procedures, continuing education, physician assistants; authorizing the Board of Medicine to promulgate a legislative rule relating to the dispensing of legend drugs by practitioners; authorizing the Board of Optometry to promulgate a legislative rule relating to continuing education; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to mail-order and non-resident pharmacies; authorizing the Board of Pharmacy to promulgate a legislative rule, relating to the
registration of pharmacy technicians; authorizing the Board of Pharmacy to promulgate a legislative rule, relating to a controlled substances monitoring program; authorizing the Board of Physical Therapy to promulgate a legislative rule relating to fees for physical therapist and physical therapist assistant; authorizing the Public Service Commission to promulgate a legislative rule relating to telephone conduit occupancy; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to requirements for registration and licensure and conduct constituting professional misconduct; authorizing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to limited prescriptive authority for nurses in advanced practice; authorizing the State Board of Sanitarians to promulgate a legislative rule relating to practice of public health sanitation; authorizing the Secretary of State to promulgate a legislative rule relating to voter registration at the Division of Motor Vehicles; authorizing the Secretary of State to promulgate a legislative rule relating to voter registration list maintenance by the Secretary of State; authorizing the Board of Social Work Examiners to promulgate a legislative rule relating to continuing education for social workers and providers; authorizing the Board of Speech-Language Pathology and Audiology to promulgate a legislative rule relating to licensure of speech-pathology and audiology; authorizing the Treasurer’s Office to promulgate a legislative rule relating to procedures for deposit of moneys with the State Treasurer’s Office by state agencies; authorizing the Treasurer’s Office to promulgate a legislative rule relating to selection of state depositories for disbursement accounts through competitive bidding; authorizing the Treasurer’s Office to promulgate a legislative rule relating to selection of state depositories for receipt accounts; authorizing the Treasurer’s Office to promulgate a legislative rule relating to procedures for processing payments from the state treasury; authorizing the Treasurer’s Office to promulgate a legislative rule relating to the procedure for fees in collections by charge, credit or debit card or by electronic payment; authorizing the Treasurer’s
Office to promulgate a legislative rule relating to procedures for providing services to political subdivisions; and authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to standards of practice.

Be it enacted by the Legislature of West Virginia:


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


1 (a) The legislative rule filed in the State Register on August 23, 2016, authorized under the authority of section two, article nine, chapter nineteen of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 23, 2016, relating to the Commissioner of Agriculture (animal disease control, 61 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 23, 2016, authorized under the authority of section three, article thirty-four, chapter nineteen of this code relating to the Commissioner of Agriculture (dangerous wild animals, 61 CSR 30), is authorized.

(c) The legislative rule filed in the State Register on August 23, 2016, authorized under the authority of section four, article one-c, chapter nineteen of this code, relating to the Commissioner of Agriculture (livestock care standards, 61 CSR 31), is authorized.
(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section one, article two-h, chapter nineteen of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 23, 2016, relating to the Commissioner of Agriculture (captive cervid, 61 CSR 34), is authorized with the following amendments:

On page two, subsection 2.10, by striking out “Class II” and inserting in lieu thereof “Class I”;

On page two, by striking out subsection 2.17 and inserting in lieu thereof a new subsection 2.17 to read as follows:

“2.17. Slaughter facility” means a slaughter facility with a valid captive cervid license operating under state or federal inspection that may hold cervids for up to seventy-two (72) hours prior to slaughtering, or a slaughter facility with no captive cervid facility license operating under state or federal inspection that must slaughter all cervids within the operating day of receipt of the animal(s).”;

On page four, by striking out subsection 5.1 and inserting in lieu thereof a new subsection 5.1 to read as follows:

“5.1. An updated inventory record containing birth and death records, and testing results shall be provided biannually: at license renewal on June 30 and by December 31.”;

On page five, paragraph 8.1.a.2, by striking out “white-tailed deer” and inserting in lieu thereof “cervids”;

On page five, paragraph 8.1.a.5, by striking out “white-tailed deer” and inserting in lieu thereof “cervids”;

On page five, subparagraph 8.1.b.3.d., by striking out “Flooring” and inserting in lieu thereof “Flooding”;
On page eight, by striking out all of subsection 10.2 and inserting in lieu thereof a new subsection 10.2 to read as follows:

“10.2. A licensee shall forward a copy of the records of all acquisitions, mortalities by unknown cause, sales or possession transfers to the State Veterinarian’s Office within fifteen (15) days. Applications to receive or transfer captive cervids shall be made on forms provided by the Department.”;

On page eight, subsection 11.6, after the word “months”, by inserting a comma and the following words: or from an out-of-state captive cervid facility which is located within a fifteen (15) mile radius of a confirmed CWD or TB positive cervid in the last sixty (60) months.”;

On page ten, by striking out subsection 12.2 and inserting in lieu thereof a new subsection 12.2 to read as follows:

“12.2. Any captive cervid that escapes from a captive cervid facility shall be dispatched by the Department or DNR personnel, unless after review by the Commissioner of Agriculture and the West Virginia State Veterinarian it is determined that the escaped captive cervid, after being secured and returned to the premise from which it escaped, does not present a health risk to the public, other captive cervids or wildlife: Provided, That all escaped cervids that are sourced from a known, confirmed TB and CWD containment area will be dispatched.”;

On page eleven, subsection 13.6, by striking out the words “if from a captive cervid facility” and inserting in lieu thereof the word “number”; 

On page eleven, by un-striking subsection 3.7;

And,

By renumbering the remaining subsection.
§64-9-2. Board of Architects.

1 The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section one, article twelve, chapter thirty of this code, modified by the Board of Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 5, 2016, relating to the Board of Architects (registration of architects, 2 CSR 01), is authorized with the following amendments:

9 On page one, subsection 1.5, by striking out the phrase “fifteen (15)” and inserting in lieu thereof the phrase “ten (10)”.


(a) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section twenty-four, article five-a, chapter twenty-nine of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2016, relating to the Athletic Commission (administrative rules of the West Virginia State Athletic Commission, 177 CSR 01), is authorized with the following amendments:

10 On page four, after subdivision “4.5.g.” by striking out the words “No fee for amateurs. —” and inserting in lieu thereof “4.6”;

13 On page four, in the paragraph beginning with the words “No fee for amateurs” after the words “amateur contestant or a” by striking out the word “managers” and inserting in lieu thereof the word “manager”;

17 On page eight, in the section heading “11a. Testing for Older Fighters”, by striking out 11.a and inserting in lieu thereof “12”;
On page eight, by striking out 11a.1 and inserting in lieu thereof “12.1”;

On page nine, by striking out 11a.2 and inserting in lieu thereof “12.2”;

On page nine, by striking out 11a.3 and inserting in lieu thereof “12.3”;

On page nine, by striking out 11a.3.a and inserting in lieu thereof “12.3.a”;

On page nine, by striking out 11a.3.b and inserting in lieu thereof “12.3.b”;

On page nine, by striking out 11a.3.c and inserting in lieu thereof “12.3.c”;

On page nine, by striking out 11a.4 and inserting in lieu thereof “12.4”;

On page nine, after subsection 11a.4 by adding a new subsection to read as follows:

“12.5. The applicant, or by contract, the promoter, shall pay for any medical testing required in this section: Provided, That the applicant is responsible to be tested timely pursuant to the applicable rules of the Commission.” and by renumbering the remaining sections;

On page eleven, subsection 25.1, by striking out the words “shall neither” and inserting in lieu thereof the words “may not”;

On page thirteen, subsection 30.2, by striking out the word “provision” and inserting in lieu thereof the word “section”;

On page twenty-one, in the section heading, by striking out “45a” and inserting in lieu thereof “47”;
On page twenty-one, by striking out “45a.1” and inserting in lieu thereof “47.1”;

On page twenty-one, by striking out “45a.2” and inserting in lieu thereof “47.2”;

On page twenty-one, by striking out “45a.2.a” and inserting in lieu thereof “47.2.a”;

On page twenty-one, by striking out “45a.2.a.1” and inserting in lieu thereof “47.2.a.1”;

On page twenty-one, by striking out “45a.2.a.2” and inserting in lieu thereof “47.2.a.2”;

On page twenty-one, by striking out “45a.2.a.3” and inserting in lieu thereof “47.2.a.3”;

On page twenty-one, by striking out “45a.2.a.4” and inserting in lieu thereof “47.2.a.4”;

On page twenty-one, by striking out “45a.2.a.5” and inserting in lieu thereof “47.2.a.5”;

On page twenty-one, by striking out “45a.2.b” and inserting in lieu thereof “47.2.b”;

On page twenty-one, by striking out “45a.2.b.1” and inserting in lieu thereof “47.2.b.1”;

On page twenty-one, by striking out “45a.2.b.2” and inserting in lieu thereof “47.2.b.2”;

On page twenty-one, in paragraph “45a.2.a.2,” after the words “wear foot pads” by adding the words “or shin guard instep pads”;
On page twenty-one, by striking out “45a.2.b.3” and inserting in lieu thereof “47.2.b.3”;  

On page twenty-one, by striking out “45a.2.b.4” and inserting in lieu thereof “47.2.b.4”;  

On page twenty-two, by striking out “45a.2.c” and inserting in lieu thereof “47.2.c”;  

On page twenty-two, by striking out “45a.2.c.1” and inserting in lieu thereof “47.2.c.1”;  

On page twenty-two, by striking out “45a.2.c.2” and inserting in lieu thereof “47.2.c.2”;  

On page twenty-two, by striking out “45a.2.c.3” and inserting in lieu thereof “47.2.c.3”;  

On page twenty-two, by striking out “45a.2.c.4” and inserting in lieu thereof “47.2.c.4”;  

On page twenty-two, by striking out “45a.2.c.5” and inserting in lieu thereof “47.2.c.5”;  

On page twenty-two, paragraph 45a.2.c.5., after the sentence ending with the words “two (2) minutes’ duration.” by striking out the remainder of the paragraph;  

On page twenty-two, after 45a.2.c.5., by adding a new paragraph to read as follows:  

“47.2.c.6. An amateur contestant’s fourth and each subsequent amateur bout shall consist of three (3) rounds and three (3) minutes duration.”;  

On page twenty-two, by striking out “45a.3” and inserting in lieu thereof “47.3”;  

On page twenty-two, by striking out “45a.3.a” and inserting in lieu thereof “47.3.a”;
On page twenty-two, by striking out “45a.3.a.1” and inserting in lieu thereof “47.3.a.1”;

On page twenty-two, by striking out “45a.3.a.2” and inserting in lieu thereof “47.3.a.2”;

On page twenty-two, by striking out “45a.3.a.3” and inserting in lieu thereof “47.3.a.3”;

On page twenty-two, by striking out “45a.3.b” and inserting in lieu thereof “47.3.b”;

On page twenty-two, by striking out “45a.3.b.1” and inserting in lieu thereof “47.3.b.1”;

On page twenty-two, by striking out “45a.3.b.2” and inserting in lieu thereof “47.3.b.2”;

On page twenty-two, by striking out “45a.3.b.3” and inserting in lieu thereof “47.3.b.3”;

On page twenty-two, by striking out “45a.3.b.4” and inserting in lieu thereof “47.3.b.4”;

On page twenty-two, by striking out “45a.3.b.5” and inserting in lieu thereof “47.3.b.5”;

On page twenty-two, by striking out “45a.3.b.6” and inserting in lieu thereof “47.3.b.6”;

On page twenty-two, by striking out “45a.3.b.7” and inserting in lieu thereof “47.3.b.7”;

On page twenty-three, by striking out “45a.3.c” and inserting in lieu thereof “47.3.c”;

On page twenty-three, by striking out “45a.3.c.1” and inserting in lieu thereof “47.3.c.1”;

On page twenty-three, by striking out “45a.3.c.2” and inserting in lieu thereof “47.3.c.2”;
On page twenty-three, by striking out “45a.3.c.3” and inserting in lieu thereof “47.3.c.3” and by renumbering the remaining sections;

On page twenty three, paragraph 45a.3.c.3., after the sentence ending with the words “two (2) minutes duration.” by striking out the remainder of the paragraph;

And,

On page twenty-three, after 45a.3.c.3., by adding a new paragraph to read as follows:

“47.3.c.4. An amateur contestant’s fourth and each subsequent amateur bout shall consist of three (3) rounds and three (3) minutes’ duration.”

(b) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section twenty-four, article five-a, chapter twenty-nine of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2016, relating to the Athletic Commission (regulation of mixed martial arts, 177 CSR 02), is authorized.

§64-9-4. Auditor’s Office.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section ten, article three, chapter twelve of this code, modified by the Auditor’s Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 21, 2016, relating to the Auditor’s Office (standards for requisitions for payment issued by state officers on the Auditor, 155 CSR 01), is authorized with the following amendment:

On page eleven, by striking subdivision 10.1.e in its entirety.
(b) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section nine, article eight, chapter eleven of this code, modified by the Auditor’s Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 21, 2016, relating to the Auditor’s Office (procedure for local levying bodies to apply for permission to extend time to meet as levying body, 155 CSR 08), is authorized.

§64-9-5. Board of Barbers and Cosmetologists.

(a) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Barbers and Cosmetologists (qualifications, training, examination and certification of instructors in barbering and cosmetology, 3 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on August 19, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, relating to the Board of Barbers and Cosmetologists (licensing schools of barbering, cosmetology, nail technology and aesthetics, 3 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 26, 2017, relating to the Board of Barbers and Cosmetologists (operational standards for schools of barbering, cosmetology, hair styling, nail technology and aesthetics, 3 CSR 04), is authorized with the following amendment:
On page three, by striking out all of subdivision 3.1.r. in its entirety;

On page three, subdivision 3.2.d. by striking out the sentence “Theory classes shall be taught at least 12 hours per week.”;

And,

On page three, by striking out all of subdivision 3.2.s. in its entirety.

(d) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 19, 2017, relating to the Board of Barbers and Cosmetologists (operation of barber, beauty, nail and aesthetic shops/salons and schools of barbering and beauty culture, 3 CSR 05), is authorized.

(e) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 19, 2017, relating to the Board of Barbers and Cosmetologists (schedule of fees, 3 CSR 06), is authorized.

(f) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 19, 2017, relating to the Board of Barbers and Cosmetologists
(continuing education, 3 CSR 11), is authorized with the following amendments:

On page one, subsection 1.1 to read as follows:

Scope. – The legislative rule establishes requirements for continuing education to practice hair styling, barbering, cosmetology, manicuring/nail technology, and aesthetics. All persons licensed by the Board to practice beauty culture must earn a minimum of four (4) hours of continuing education credits annually. Licensees who have been licensed for twenty (20) years or more are exempt from the continuing education requirements but must take a three (3) hour sanitation class every other year.

And;

On page three, subsection 4.4 to read as follows:

4.4 Licensees who have been licensed for twenty (20) years or more are exempt from the continuing education requirements but must take a three (3) hour sanitation class every other year.

(g) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section eight-a, article twenty-seven, chapter thirty of this code, modified by the Board of Barbers and Cosmetologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 19, 2017, relating to the Board of Barbers and Cosmetologists (barber apprenticeship, 3 CSR 13), is authorized.

(h) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section six, article twenty-seven, chapter thirty of this code, relating to the Board of Barbers and Cosmetologists (waxing specialist, 3 CSR 14), is authorized.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Examiners in Counseling (licensed professional counselor fees, 27 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Examiners in Counseling (licensed professional counselor license renewal and continuing professional education requirements, 27 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Examiners in Counseling (marriage and family therapist fees, 27 CSR 09), is authorized.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2017, relating to the Board of Examiners in Counseling (marriage and family therapist license renewal and
continuing professional education requirements, 27 CSR 10), is authorized with the following amendment:

On page four, subdivision 4.1.b. after the words “continuing education” by unstriking the stricken words “on a biennium basis beginning”;

And,

On page four, subdivision 4.1.b. after the words “license renewal” by unstriking the words “on or after”.


The legislative rule filed in the State Register on February 11, 2016, authorized under the authority of section three, article thirty-four, chapter nineteen of this code, modified by the Dangerous Wild Animal Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 31, 2016, relating to the Dangerous Wild Animal Board (dangerous wild animals, 74 CSR 01), is authorized.


The legislative rule filed in the State Register on July 26, 2016, authorized under the authority of section six, article four, chapter thirty of this code, modified by the Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 2, 2016, relating to the Board of Dentistry (rule for the West Virginia Board of Dentistry, 5 CSR 01), is authorized with the following amendments:

On page one, by striking out subsection 1.5 and inserting in lieu thereof a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 10 years from its effective date.”
And,

On page four, after subsection 4.2, by inserting a new subsection 4.3, to read as follows:

“4.3 Teaching Permits with U.S. Specialty Training. The Board of Dentistry may issue a teaching permit to an applicant trained in foreign dental schools, who possess a certificate of completed dental specialty training from a U. S. or Canadian dental school and who has received U. S. Board certification. The permit shall be issued only upon certification of the dean of a dental school located in this state, that the applicant is a member of the staff at that school. The permits are valid for one year and may be reissued by the Board with a written recommendation of the dental school dean. The holder of the permit may perform all operations which a person licensed to practice dentistry in this state may perform, but only within the confines of the primary location of the dental school, or teaching hospital adjacent to a dental school located within the state and as an adjunct to his or her teaching functions in the dental school.”


(a) The legislative rule filed in the State Register on July 12, 2016, authorized under the authority of section seven, article three, chapter thirty of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2016, relating to the Board of Medicine (licensing and disciplinary procedures: physicians; podiatrists, 11 CSR 1A), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.”
The legislative rule filed in the State Register on July 12, 2016, authorized under the authority of section three, article three-e, chapter thirty of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2016, relating to the Board of Medicine (licensure, disciplinary and complaint procedures, continuing education, physician assistants, 11 CSR 1B), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.”

The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section seven, article three, chapter thirty of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 26, 2016, relating to the Board of Medicine (dispensing of legend drugs by practitioners, 11 CSR 5), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.”
the State Register on October 3, 2016, relating to the Board of Optometry (continuing education, 14 CSR 10), is authorized.


(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section three, article three-e, chapter thirty of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2016, relating to the Board of Osteopathic Medicine (licensing procedures for osteopathic physicians, 24 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 29, 2016, authorized under the authority of section three, article three-e, chapter thirty of this code, modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2016, relating to the Board of Osteopathic Medicine (osteopathic physician assistants, 24 CSR 02), is authorized.

§64-9-12. Board of Pharmacy.

(a) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section seven, article five, chapter thirty of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2016, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section seven, article five, chapter thirty of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2016, relating to the
Board of Pharmacy (mail-order and non-resident pharmacies, 15 CSR 06), is authorized.

(c) The legislative rule effective on May 17, 2015, authorized under the authority of section seven, article five, chapter thirty of this code, relating to the West Virginia Board of Pharmacy (registration of pharmacy technicians, 15 CSR 7), is authorized, with the following amendment:

On page one, by inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 10 years from its effective date.”

On page three, subsection 4.1, by striking the phrase “The training program shall, at a minimum contain the following:” and inserting in lieu thereof the phrase “A competency based pharmacy technician education and training program shall, at a minimum contain the following:”

And,

On page five, subsection 4.3, by striking out subdivision (a), and inserting in lieu thereof a new subdivision (a), to read as follows:

“(a) has graduated from a high school or obtained a Certificate of General Educational Development (GED) or its equivalent, or is currently enrolled in a high school competency based pharmacy technician education and training program;”.

(d) The legislative rule filed in the State Register on August 18, 2016, authorized under the authority of section six, article nine, chapter sixty-a of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2016, relating to the
48 Board of Pharmacy (controlled substances monitoring program, 15 CSR 08), is authorized.


1 The legislative rule filed in the State Register on April 22, 2016, authorized under the authority of section six, article twenty, chapter thirty of this code, relating to the Board of Physical Therapy (fees for physical therapist and physical therapist assistant, 16 CSR 04), is authorized.


1 The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section three, article two-e, chapter twenty-four of this code, modified by the Public Service Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2016, relating to the Public Service Commission (telephone conduit occupancy, 150 CSR 37), is authorized.


1 The legislative rule filed in the State Register on July 29, 2016, authorized under the authority of section four, article seven, chapter thirty of this code, modified by the Board of Examiners for Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2016, relating to the Board of Examiners for Registered Professional Nurses (requirements for registration and licensure and conduct constituting professional misconduct, 19 CSR 03), is authorized with the following amendments:

11 On page one, by striking out subsection 1.5 and inserting in lieu thereof a new subsection 1.5, to read as follows:
“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 10 years from its effective date.”

And,

On page sixteen, subsection 14.4, after the words “or other action.” by adding “A licensee whose license has been summarily suspended is entitled to a hearing not less than twenty (20) days after the license was summarily suspended. The licensee may waive his or her right to a hearing on the summary suspension within the twenty (20) day period.”

(b) The legislative rule filed in the State Register on August 2, 2016, authorized under the authority of section four, article seven, chapter thirty of this code, modified by the Board of Examiners for Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2016, relating to the Board of Examiners for Registered Professional Nurses (limited prescriptive authority for nurses in advanced practice, 19 CSR 08), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5, to read as follows:

“1.5 Sunset Date – This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.”


The legislative rule filed in the State Register on August 11, 2016, authorized under the authority of section six, article seventeen, chapter thirty of this code, modified by the State Board of Sanitarians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 3, 2016, relating to the State
§64-9-17. Secretary of State.

(a) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section eleven, article two, chapter three of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 17, 2017, relating to the Secretary of State (voter registration at the Division of Motor Vehicles, 153 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on August 24, 2016, authorized under the authority of section twenty-three-a, article two, chapter three of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 17, 2017, relating to the Secretary of State (voter registration list maintenance by the Secretary of State, 153 CSR 05), is authorized.


The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article thirty, chapter thirty of this code, modified by the Board of Social Work Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 27, 2016, relating to the Board of Social Work Examiners (continuing education for social workers and providers, 25 CSR 05), is authorized.


The legislative rule filed in the State Register on August 22, 2016, authorized under the authority of section seven, article thirty-two, chapter thirty of this code, modified by the Board of Speech-Language Pathology and Audiology to
meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 23, 2017, relating to the Board of Speech-Language Pathology and Audiology (licensure of speech-pathology and audiology, 29 CSR 01), is authorized.

§64-9-20. Treasurer’s Office.

(a) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section two, article two, chapter twelve of this code, modified by the Treasurer’s Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer’s Office (procedures for deposit of moneys with the State Treasurer’s Office by state agencies, 112 CSR 04), is authorized.

(b) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section two, article one, chapter twelve of this code, modified by the Treasurer’s Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer’s Office (selection of state depositories for disbursement accounts through competitive bidding, 112 CSR 06), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section two, article one, chapter twelve of this code, modified by the Treasurer’s Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer’s Office (selection of state depositories for receipt accounts, 112 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section one, article three, chapter twelve of this code, modified by
the Treasurer’s Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer’s Office (procedures for processing payments from the state treasury, 112 CSR 08), is authorized.

(e) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article three-a, chapter twelve of this code, modified by the Treasurer’s Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer’s Office (procedures for fees in collections by charge, credit or debit card or by electronic payment, 112 CSR 12), is authorized.

(f) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section six, article three-a, chapter twelve of this code, modified by the Treasurer’s Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 21, 2016, relating to the Treasurer’s Office (procedures for providing services to political subdivisions, 112 CSR 13), is authorized.


The legislative rule filed in the State Register on June 15, 2016, authorized under the authority of section five, article ten, chapter thirty of this code, modified by the Board of Veterinary Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2016, relating to the Board of Veterinary Medicine (standards of practice, 26 CSR 04), is authorized with the following amendment:

On page one, by deleting subsection 1.5 and inserting a new subsection 1.5 to read as follows:
“1.5 Sunset Date – This rule shall terminate and have no further force or affect upon the expiration of 10 years from its effective date.”

CHAPTER 145

(Com. Sub. for S. B. 134 - By Senator Maynard)

[Passed April 8, 2017; in effect from passage.]
[Approved by the Governor on April 25, 2017.]

AN ACT to amend and reenact §64-10-1, §64-10-2 and §64-10-3 of the Code of West Virginia, 1931, as amended, all relating to authorizing certain Department of Commerce legislative rules; authorizing certain agencies to promulgate certain legislative rules as presented to the Legislative Rule-Making Review Committee; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; repealing certain legislative rules promulgated by certain agencies and boards under the Department of Commerce which are no longer authorized or are obsolete; directing the promulgation rules by certain agencies and boards under the Department of Commerce; authorizing the Division of Natural Resources to promulgate a legislative rule relating to the point system for the revocation of hunting – repeal; authorizing the Division of Natural Resources to promulgate a legislative rule relating to revocation of hunting and fishing licenses; authorizing the Division of Natural Resources to promulgate a legislative rule relating to special waterfowl hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to the commercial sale of wildlife; authorizing the Division of Natural Resources to promulgate a legislative rule relating to miscellaneous permits and licenses; repealing the Division of Natural Resources legislative rule relating to litter control
grant program; authorizing the Office of Miners’ Health, Safety and Training to promulgate a legislative rule relating to certification, recertification and training of EMT-Miners and the certification of EMT-M instructors; and directing the Board of Coal Mine Health and Safety to promulgate a legislative rule relating to rules governing proximity detection systems and haulage safety generally.

*Be it enacted by the Legislature of West Virginia:*

That §64-10-1, §64-10-2 and §64-10-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 10. AUTHORIZATION FOR DEPARTMENT OF COMMERCE TO PROMULGATE LEGISLATIVE RULES.**

§64-10-1. Division of Natural Resources.

(a) The legislative rule filed in the State Register on August 29, 2016, authorized under the authority of section seven, article one, chapter twenty of this code, relating to the Division of Natural Resources (point system for the revocation of hunting - repeal, 58 CSR 24), is authorized.

(b) The legislative rule filed in the State Register on August 29, 2016, authorized under the authority of section seven, article one, chapter twenty of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2017, relating to the Division of Natural Resources (revocation of hunting and fishing licenses, 58 CSR 23), is authorized.

(c) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section seven, article one, chapter twenty of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2017, relating to the
Division of Natural Resources (special waterfowl hunting, 58 CSR 58), is authorized.

(d) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section eleven, article two, chapter twenty of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2017, relating to the Division of Natural Resources (commercial sale of wildlife, 58 CSR 63), is authorized.

(e) The legislative rule filed in the State Register on August 26, 2016, authorized under the authority of section seven, article one, chapter twenty of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2017, relating to the Division of Natural Resources (miscellaneous permits and licenses, 58 CSR 64), is authorized.

(f) The legislative rule effective on April 14, 2000, authorized under the authority of section 1 twenty-five, article seven, chapter twenty of this code, relating to the Division of Natural Resources (litter control grant program, 58 CSR 6), is repealed.


The legislative rule filed in the State Register on July 6, 2016, authorized under the authority of section six-c, article four-c, chapter sixteen of this code, modified by the Office of Miners’ Health, Safety and Training to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 6, 2016, relating to the Office of Miners’ Health, Safety and Training (certification, recertification and training of EMT-Miners and the certification of EMT-M instructors, 56 CSR 22), is authorized.

§64-10-3. Board of Coal Mine Health and Safety.
The Legislature directs the Board of Coal Mine Health and Safety, pursuant to the authority given to the board in section four, article six, chapter twenty-two-a of this code, to promulgate the legislative rule filed in the State Register by the Board of Coal Mine Health and Safety on July 1, 2014, relating to rules governing proximity detection systems and haulage safety generally, (36 CSR 57), with the amendment set forth below:

On page two, subsection 4.3, by striking out the date “July 1, 2017” and inserting in lieu thereof the following “the timeframe set forth in the federal rule relating to proximity detection systems.”

CHAPTER 146

(S. B. 554 - By Senator Weld)

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §4-1-6a, relating to false swearing in a legislative proceeding; providing criminal penalty; and providing disqualification from holding office or position of honor, trust or profit, and serving as a juror.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §4-1-6a, to read as follows:

ARTICLE 1. OFFICERS, MEMBERS AND EMPLOYEES; APPROPRIATIONS; INVESTIGATIONS; DISPLAY OF FLAGS; RECORDS; USE OF CAPITOL BUILDING;
§4-1-6a. False swearing in a legislative proceeding; penalty.

(a) A person may not willfully swear falsely, under oath or affirmation lawfully administered, in a legislative proceeding concerning any matter or thing material or not material, or procure, or attempt to procure, another person to do so.

(b) A person who violates subsection (a) of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than $1,000 and, in the discretion of the court, be confined in jail not more than one year.

(c) A person convicted of violating subsection (a) of this section is ineligible to hold any office or position of honor, trust or profit in this state, and to serve as a juror.

CHAPTER 147

(Com. Sub. for H. B. 2898 - By Mr. Speaker (Mr. Armstead))

[Passed April 5, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 26, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §4-3-6, relating to authorizing the Joint Committee on Government and Finance to request and obtain criminal background checks of employees of the Legislature.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §4-3-6, to read as follows:
ARTICLE 3. JOINT COMMITTEE ON GOVERNMENT AND FINANCE.

§4-3-6. Authority to screen employees of the Legislature; background checks.

The Joint Committee on Government and Finance shall create and implement a background check program to facilitate the processing and analysis of the criminal history and background of applicants for employment by the Legislature. In the course of determining an applicant’s eligibility for employment with the Legislature, the legislative manager shall request each applicant to submit a full set of fingerprints for the purpose of conducting a criminal history record check. Records shall be checked through the Criminal Identification Bureau of the West Virginia State Police and the United States Federal Bureau of Investigation for a national criminal history record check and the results shall be made available to the Director of the Division of Protective Services. If the results of the criminal history check reveal an offense or offenses, the Director of the Division of Protective Services shall advise the President of the Senate, the Speaker of the House of Delegates or the joint committee depending on the appropriate hiring authority for the position sought by the applicant.

CHAPTER 148

(Com. Sub. for H. B. 2839 - By Delegates Howell, Frich, Dean, Hill, G. Foster, Martin, Hamrick, Arvon, Lewis, Sypolt and Rohrbach)

[Passed April 7, 2017; in effect ninety days from passage.] [Approved by the Governor on April 25, 2017.]

AN ACT to amend and reenact §4-10-3, §4-10-6, §4-10-7, §4-10-8, §4-10-10 and §4-10-14 of the Code of West Virginia, 1931,
as amended, all relating to generally the West Virginia Performance Review Act; modifying the definition of the term “division”; modifying the timing and scope of department presentations; updating the schedules of department presentations, agency reviews and regulatory board reviews; eliminating the requirement that an agency review include an analysis of agency websites; and authorizing the joint standing committee on Government Organization to request a review of any agency or program and to recommend or propose the consolidation, termination or reassignment of the agencies or programs reviewed.

Be it enacted by the Legislature of West Virginia:

That §4-10-3, §4-10-6, §4-10-7, §4-10-8, §4-10-10 and §4-10-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 10. PERFORMANCE REVIEW ACT.

§4-10-3. Definitions.

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

(a) “Agency” or “state agency” means a state governmental entity, including any bureau, department, division, commission, agency, committee, office, board, authority, subdivision, program, council, advisory body, cabinet, panel, system, task force, fund, compact, institution, survey, position, coalition or other entity in the State of West Virginia.

(b) “Agency review” means a review performed on agencies of a department pursuant to the provisions of this article.

(c) “Committee” means the Joint Committee on Government Operations.

(d) “Compliance review” means a review for compliance with recommendations contained in a previous agency review or regulatory board review conducted pursuant to the provisions of
(e) “Department” means the departments created within the executive branch, headed by a secretary appointed by the Governor, as authorized by the Code of West Virginia.

(f) “Department presentation” means a presentation by a department pursuant to the provisions of this article.

(g) “Division” means the Performance Evaluation and Research Division, the Post Audit Division, or any division of the Legislative Auditor’s Office.

(h) “Joint standing committee” means the joint standing committee on Government Organization.

(i) “Privatize” means a contract to procure the services of a private vendor to provide a service that is similar to, and/or in lieu of, a service provided by a state agency.

(j) “Regulatory Board” means a board that regulates professions and occupations, created under the provisions of chapter thirty of this code.

(k) “Regulatory Board Review” means a review performed on a regulatory board pursuant to the provisions of this article.

§4-10-6. Department presentation; timing and scope.

1 (a) During the calendar year in which a department is scheduled for an agency review pursuant to section eight of this article, and upon notification from the joint standing committee or the division, the department shall prepare and present a department presentation to the joint standing committee and the committee. The purpose of the presentation is to inform the Legislature as to the programs, activities and financial situation of the department and to update and amend any information previously presented to
the joint standing committee or committee pursuant to this section. The presentation shall include:

(1) A departmental chart designating each agency under the purview of the department;

(2) An analysis of the department’s internal performance measures and self-assessment systems; and

(3) For each agency under the purview of the department, the following:

(A) The mission, goals and functions of the agency;

(B) The statutory or other legal authority under which the agency operates;

(C) The number of employees of the agency for the immediate past ten years;

(D) The budget for the agency for the immediate past ten years;

(E) Any potential or actual loss of revenue due to operations, changes in law or any other reason;

(F) The extent to which the agency has operated in the public interest;

(G) The extent to which the agency has complied with state personnel practices, including affirmative action requirements;

(H) The extent to which the agency has encouraged public participation in the making of its rules and decisions and has encouraged interested persons to report to it on the impact of its rules and decisions on the effectiveness, economy and availability of services that it has provided;

(I) The efficiency with which public inquiries or complaints regarding the activities of the agency have been processed and resolved;
(J) The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency to better serve the interests of the public and to comply with the factors enumerated in this subsection; and

(K) A recommendation as to whether the agency should be continued, consolidated or terminated.

§4-10-7. Agency review.

(a) The committee and the joint standing committee shall conduct agency reviews, or authorize the division to conduct agency reviews as one of its duties in addition to its other duties prescribed by law, in accordance with generally accepted government auditing standards (GAGAS) as promulgated by the U.S. Government Accountability Office, on one or more of the agencies under the purview of a department, during the year in which the department is scheduled for review under the provisions of this article.

(b) The agency review may include, but is not limited to:

(1) An identification and description of the agency under review;

(2) The number of employees of the agency for the immediate past ten years;

(3) The budget for the agency for the immediate past ten years;

(4) Whether the agency is effectively and efficiently carrying out its statutory duties or legal authority;

(5) Whether the activities of the agency duplicate or overlap with those of other agencies and, if so, how these activities could be consolidated;
(6) A cost-benefit analysis, as described in subsection (e) of this section, on state services that are privatized or contemplated to be privatized;

(7) An assessment of the utilization of information technology systems within the agency, including interagency and intra-agency communications;

(8) An analysis of any issues raised by the presentation made by the department pursuant to the provisions of this article;

(9) An analysis of any other issues as the committee or the joint standing committee may direct; and

(10) A recommendation as to whether the agency under review should be continued, consolidated or terminated.

c) The committee or the joint standing committee may vote on the recommendation as to whether the agency under review should be continued, consolidated or terminated. Recommendations of the committee or the joint standing committee shall be given considerable weight in determining if an agency should be continued, consolidated or terminated.

d) An agency may be subject to a compliance review pursuant to the provisions of this article.

e) A cost-benefit analysis authorized by this section may include:

(1) The tangible benefits of privatizing the service;

(2) Any legal impediments that may limit or prevent privatization of the service;

(3) The availability of multiple qualified and competitive private vendors; and
(4) A cost comparison, including total fixed and variable, direct and indirect, costs of the current governmental operation and the private vendor contract.

§4-10-8. Schedule of departments for agency review.

(a) Each department shall make a presentation, pursuant to the provisions of this article, to the joint standing committee and the committee during the first interim meeting after the regular session of the year in which the department is to be reviewed pursuant to the schedule set forth in subsection (b) of this section.

(b) An agency review shall be performed on one or more agencies under the purview of each department at least once every seven years, as follows:

(1) 2017: The Department of Revenue and the Department of Commerce;

(2) 2018: The Department of Environmental Protection and the Department of Military Affairs and Public Safety;

(3) 2019: The Department of Health and Human Resources, including the Bureau of Senior Services;

(4) 2020: The Department of Transportation;

(5) 2021: The Department of Administration;

(6) 2022: The Department of Education, the Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education; and

(7) 2023: The Department of Veterans’ Assistance and the Department of Education and the Arts.

§4-10-10. Regulatory board review schedule.

(a) A regulatory board review is required for all regulatory boards.
(b) A regulatory board review shall be performed on each regulatory board at least once every twelve years, commencing as follows:

1. 2017: Board of Accountancy; Board of Respiratory Care Practitioners; and Board of Social Work Examiners.
2. 2018: Board of Examiners of Psychologists; Board of Optometry; and Board of Veterinary Medicine.
3. 2019: Board of Acupuncture; Board of Barbers and Cosmetologists; and Board of Examiners in Counseling.
4. 2020: Board of Hearing Aid Dealers; Board of Licensed Dietitians; and Nursing Home Administrators Board.
5. 2021: Board of Dental Examiners; Board of Medicine; and Board of Pharmacy.
6. 2022: Board of Chiropractic Examiners; Board of Osteopathy; and Board of Physical Therapy.
7. 2023: Board of Occupational Therapy; Board of Examiners for Speech-Language Pathology and Audiology; and Medical Imaging and Radiation Therapy Board of Examiners.
8. 2024: Board of Professional Surveyors; Board of Registration for Foresters; and Board of Registration for Professional Engineers.
9. 2025: Board of Examiners for Licensed Practical Nurses; Board of Examiners for Registered Professional Nurses; and Massage Therapy Licensure Board.
10. 2026: Board of Architects; Board of Embalmers and Funeral Directors; and Board of Landscape Architects; and
(11) 2027: Board of Registration for Sanitarians; Real Estate Appraiser Licensure and Certification Board; and Real Estate Commission.

§4-10-14. Provision for other reviews; consolidation, termination and reorganization of agencies or programs.

(a) The specifications of schedules for, and the scope of, agency and regulatory board reviews in this article shall not preclude a legislative review or reevaluation of any agency or program at other times. The joint standing committee may request a review of the performance, purpose, efficiency and effectiveness of any agency or program any time that circumstances may require, including, but not limited to, the following:

(1) Expressed or implied statutory expiration of an agency or program;

(2) Creation of new, or the amendment of existing, federal law affecting the agency or program;

(3) Redundant purposes or functions in more than one agency or program or within an agency;

(4) Completion or satisfaction of agency or program objectives;

(5) Persistent inefficiencies in the delivery of services or in the accomplishment, or lack thereof, of statutory objectives;

(6) Fiscal constraints requiring changes in staffing, resources or goals; and

(7) Changes in legislative policy or direction.

(b) Following the completion of a review by the division and the joint standing committee, with responses and comment from the subject agency or regulatory board, the joint standing committee may recommend or propose the
consolidation, termination or reassignment of the agency, program or regulatory board reviewed.

(c) Nothing in this article shall be construed as limiting or interfering with the right of any member of the Legislature to introduce, or of the Legislature to enact, any bill that would terminate, consolidate or reorganize one or more state agencies or programs without a review conducted under the terms of this article.

CHAPTER 149

(Com. Sub. for S. B. 261 - By Senator Trump)

[Passed April 3, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 11, 2017.]

AN ACT to amend and reenact §38-5A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §38-5B-2 of said code, all relating to suggestions of salary and wages of judgment debtors; removing the requirement of including the last four digits of the Social Security number of the judgment debtor in the suggestion execution in private employment; increasing the amount of salary or wages of persons from the state, a state agency or any political subdivision of the state from thirty times the federal minimum hourly wage then in effect to fifty times the federal minimum hourly wage then in effect; requiring judgment creditor to provide personal information about the judgment debtor including, to the extent available, the present address and date of birth of the judgment debtor in the suggestee execution; and making technical changes.

Be it enacted by the Legislature of West Virginia:
That §38-5A-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §38-5B-2 of said code be amended and reenacted, all to read as follows:

ARTICLE 5A. SUGGESTIONS OF SALARY AND WAGES OF PERSONS ENGAGED IN PRIVATE EMPLOYMENT.

§38-5A-3. Application for suggestee execution against salary or wages; extent of lien and continuing levy; exemption; priority among suggestee executions.

(a) A judgment creditor may apply to the court in which the judgment was recovered or a court having jurisdiction of the same, without notice to the judgment debtor, for a suggestee execution against any money due or to become due within one year after the issuance of such execution to the judgment debtor as salary or wages arising out of any private employment. If satisfactory proof shall be made, by affidavit or otherwise, of such facts and the fact that the amount due or to become due as salary or wages after the deduction of all state and federal taxes exceeds in any week fifty times the federal minimum hourly wage then in effect, the court, if not a court of record, or if a court of record the clerk thereof, shall issue a suggestee execution against the salary or wages of the judgment debtor and upon presentation of such execution by the officer to whom delivered for collection to the person or persons from which such salary or wages are due and owing or thereafter may become due and owing to the judgment debtor, the execution and the expenses thereof shall become a lien and continuing levy upon the salary or wages due or to become due to the judgment debtor within one year after the issuance of the same, unless sooner vacated or modified as hereinafter provided, to an amount equal to twenty percent thereof and no more, but in no event shall the payments in satisfaction of such an execution reduce the amount payable to the judgment debtor to an amount per week that is less than fifty times the federal minimum hourly wage then in effect. Only one such execution shall be satisfied, at one time, except that in the event two or more such executions
have been served and satisfaction of the one having priority is completed without exhausting the amount of the salary or wages then due and payable that is subject to suggestion under this article the balance of such amount shall be paid in satisfaction, in the order of their priority, of junior suggestee executions against such salary or wages theretofore served.

(b) The suggestee execution by the judgment creditor provided in this section shall include, to the extent possible, the present address and date of birth of the judgment debtor, which information shall be made available for the purpose of properly identifying the judgment debtor whose salary or wages are being levied upon.

ARTICLE 5B. SUGGESTION OF THE STATE AND POLITICAL SUBDIVISIONS; GARNISHMENT AND SUGGESTION OF PUBLIC OFFICERS.

§38-5B-2. Application for suggestee execution against money from state, state agency or political subdivision; extent of lien and continuing levy; priority among suggestee executions.

(a) A judgment creditor may apply to the court in which the judgment was recovered or a court having jurisdiction of the same, without notice to the judgment debtor, for a suggestee execution against any money due or to become due within one year after the issuance of the same to the judgment debtor from the state, a state agency or any political subdivision of the state. If satisfactory proof is made, by affidavit or otherwise, of such facts and, where the execution is sought against salary or wages, of the fact that the amount due or to become due as salary or wages after the deduction of state and federal taxes exceeds in any week fifty times the federal minimum hourly wage then in effect, the court, if not a court of record, or if a court of record, the clerk thereof, shall issue a suggestee execution against such money due or to become due to the judgment debtor, and
there shall be entered on the face thereof the day and hour of issuance.

The execution and the expenses thereof shall, when served by the officer to whom delivered for collection in the manner hereinafter provided, upon the state, a state agency or political subdivision from which such money is due or may thereafter become due to the judgment debtor, become a lien and continuing levy upon the sums due or to become due to the judgment debtor within one year after the issuance of the execution (but not to exceed twenty percent of the salary or wages due to the judgment debtor or reduce the amount received by him or her per week to an amount less than fifty times the federal minimum hourly wage then in effect) unless sooner satisfied and paid, vacated or modified as hereinafter provided.

Where more than one suggestee execution has been issued pursuant to this section against the same judgment debtor, they shall be satisfied in the order of priority in which they are served upon the state, state agency or political subdivision from which the money is due or becomes due. For purposes of determining the priority, the time that an execution served by mail, as hereinafter provided, is received, and not the time of admission of service, shall control. In the case of two or more executions received in the same mail, delivery priority shall be accorded the one first issued.

(b) The suggestee execution by the judgment creditor provided in this section shall include, to the extent possible, the present address and date of birth of the judgment debtor, which information shall be made available for the purpose of properly identifying the judgment debtor whose salary or wages are being levied upon.
AN ACT to amend and reenact §22-15A-4 of the Code of West Virginia, 1931, as amended, relating to the criminal offense of littering, clarifying that no person may place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown any litter on the private property of another, increasing criminal penalties for littering in an amount not exceeding one hundred pounds in weight or twenty-seven cubic feet in size, increasing criminal penalties for littering in an amount greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet in size, modifying the penalties for littering greater than five hundred pounds in weight or two hundred sixteen cubic feet in size or any amount which had been collected for commercial purposes, increasing penalties for second or subsequent violations for littering in an amount not exceeding one hundred pounds in weight or twenty-seven cubic feet in size, increasing penalties for second or subsequent violations for littering in an amount greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet in size and increasing civil penalties for littering, requiring magistrates or municipal court judges to consult with prosecuting attorneys before dismissing charges.

Be it enacted by the Legislature of West Virginia:
That §22-15A-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL ACTION PLAN.

§22-15A-4. Unlawful disposal of litter; civil and criminal penalty; litter control fund; evidence; notice violations; litter receptacle placement; penalty; duty to enforce violations.

(a) (1) No person may place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown any litter as defined in section two of this article, in or upon any public or private highway, road, street or alley; any private property; any public property; or the waters of the state or within one hundred feet of the waters of this state, except in a proper litter or other solid waste receptacle.

(2) It is unlawful for any person to place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown any litter from a motor vehicle or other conveyance or to perform any act which constitutes a violation of the motor vehicle laws contained in section fourteen, article fourteen, chapter seventeen-c of this code.

(3) If any litter is placed, deposited, dumped, discharged, thrown or caused to be placed, deposited, dumped or thrown from a motor vehicle, boat, airplane or other conveyance, it is prima facie evidence that the owner or the operator of the motor vehicle, boat, airplane or other conveyance intended to violate the provisions of this section.

(4) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter on his or her private property in an amount not exceeding fifty pounds in weight is not subject to the criminal provisions of this section.
(5) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter, not collected for commercial purposes, in an amount not exceeding one hundred pounds in weight or twenty-seven cubic feet in size, is guilty of a misdemeanor. Upon conviction, he or she is subject to a fine of not less than $100 nor more than $2,500, or in the discretion of the court, sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property, or waters of the state, as designated by the court, for not less than eight nor more than one hundred hours, or both. If any person is convicted of the misdemeanor by placing, depositing, dumping or throwing litter in the waters of the state, that person shall be fined $500 to no more than $3,000, or in the discretion of the court sentenced to perform community service by cleaning up litter from any waters of the state, as designated by the court, for not less than twenty to no more than one hundred twenty hours, or both.

(6) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter, not collected for commercial purposes, in an amount greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet in size is guilty of a misdemeanor. Upon conviction he or she is subject to a fine of not less than $2,500 nor more than $5,000, or in the discretion of the court, may be sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property, or waters of the state, as designated by the court, for not less than sixteen nor more than two hundred hours, or both. If any person is convicted of the misdemeanor by placing, depositing, dumping or throwing litter in the waters of the state, that person shall be fined $3,000 to no more than $5,500, or in the discretion of the
court sentenced to perform community service by cleaning up litter from any waters of the state, as designated by the court, for not less than twenty to no more than two hundred twenty hours, or both.

(7) Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter in an amount greater than five hundred pounds in weight or two hundred sixteen cubic feet in size or any amount which had been collected for commercial purposes is guilty of a misdemeanor. Upon conviction, the person shall be fined not less than $2,500 or not more than $25,000 or confinement in jail for not more than one year or both. If any person is convicted of the misdemeanor by placing, depositing, dumping or throwing litter in the waters of the state, that person shall be fined $3,000 to no more than $11,000, or confinement in jail for not more than one year or both. In addition, the violator may be guilty of creating or contributing to an open dump as defined in section two, article fifteen, chapter twenty-two of this code and subject to the enforcement provisions of section fifteen of that article.

(8) Any person convicted of a second or subsequent violation of this section is subject to double the authorized range of fines and community service for the subsection violated.

(9) The sentence of litter clean up shall be verified by environmental inspectors from the Department of Environmental Protection. Any defendant receiving the sentence of litter clean up shall provide, within a time to be set by the court, written acknowledgment from an environmental inspector that the sentence has been completed and the litter has been disposed of lawfully.

(10) Any person who has been found by the court to have willfully failed to comply with the terms of a litter clean up sentence imposed by the court pursuant to this
section is subject to, at the discretion of the court, double  
the amount of the original fines and community service  
penalties originally ordered by the court.

(11) All law-enforcement agencies, officers and  
environmental inspectors shall enforce compliance with this  
section within the limits of each agency’s statutory  
authority.

(12) No magistrate or municipal court judge may  
dismiss an action brought under the provisions of this  
section without notification to the prosecuting attorney of  
that county of his or her intention to do so and affording the  
prosecuting attorney an opportunity to be heard.

(13) No portion of this section restricts an owner, renter  
or lessee in the lawful use of his or her own private property  
or rented or leased property or to prohibit the disposal of any  
industrial and other wastes into waters of this state in a  
manner consistent with the provisions of article eleven,  
chapter twenty-two of this code. But if any owner, renter or  
lessee, private or otherwise, knowingly permits any of these  
materials or substances to be placed, deposited, dumped or  
thrown in a location that high water or normal drainage  
conditions will cause these materials or substances to wash  
into any waters of the state, it is prima facie evidence that  
the owner, renter or lessee intended to violate the provisions  
of this section: Provided, That if a landowner, renter or  
lessee, private or otherwise, reports any placing, depositing,  
dumping or throwing of these substances or materials upon  
his or her property to the prosecuting attorney, county  
commission, the Division of Natural Resources or the  
Department of Environmental Protection, the landowner,  
renter or lessee will be presumed to not have knowingly  
permitted the placing, depositing, dumping or throwing of  
the materials or substances.

(b) Any indication of ownership found in litter is prima  
facie evidence that the person identified violated the  
provisions of this section: Provided, That no inference may
be drawn solely from the presence of any logo, trademark, trade name or other similar mass reproduced things of identifying character appearing on the found litter.

(c) Every person who is convicted of or pleads guilty to disposing of litter in violation of subsection (a) of this section shall pay a civil penalty of $2,000 as costs for clean-up, investigation and prosecution of the case, in addition to any other court costs that the court is otherwise required by law to impose upon a convicted person.

The clerk of the circuit court, magistrate court or municipal court in which these additional costs are imposed shall, on or before the last day of each month, transmit fifty percent of a civil penalty received pursuant to this section to the State Treasurer for deposit in the State Treasury to the credit of a special revenue fund known as the Litter Control Fund which was transferred to the Department of Environmental Protection. Expenditures for purposes set forth in this section are not authorized from collections but are to be made only in accordance with appropriation and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions set forth in article two, chapter five-a of this code. Amounts collected which are found from time to time to exceed the funds needed for the purposes set forth in this article may be transferred to other accounts or funds and designated for other purposes by appropriation of the Legislature.

(d) The remaining fifty percent of each civil penalty collected pursuant to this section shall be transmitted to the county or regional solid waste authority in the county where the litter violation occurred. Moneys shall be expended by the county or regional solid waste authority for the purpose of litter prevention, clean up and enforcement. The county commission shall cooperate with the county or regional solid waste authority serving the respective county to develop a coordinated litter control program pursuant to section eight, article four, chapter twenty-two-c of this code.
(e) The Commissioner of the Division of Motor Vehicles, upon registering a motor vehicle or issuing an operator’s or chauffeur’s license, shall issue to the owner or licensee, as the case may be, a summary of this section and section fourteen, article fourteen, chapter seventeen-c of the code.

(f) The Commissioner of the Division of Highways shall cause appropriate signs to be placed at the state boundary on each primary and secondary road, and at other locations throughout the state, informing those entering the state of the maximum penalty provided for disposing of litter in violation of subsection (a) of this section.

(g) Any state agency or political subdivision that owns, operates or otherwise controls any public area designated by the secretary by rule promulgated pursuant to subdivision (8), subsection (a), section three of this article shall procure and place litter receptacles at its own expense upon its premises and shall remove and dispose of litter collected in the litter receptacles. After receiving two written warnings from any law-enforcement officer or officers to comply with this subsection or the rules of the secretary, any state agency or political subdivision that fails to place and maintain the litter receptacles upon its premises in violation of this subsection or the rules of the secretary shall be fined $30 per day of the violation.

CHAPTER 151

(S. B. 658 - By Senators Maynard and Cline)

[Passed April 6, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 25, 2017.]

AN ACT to amend and reenact §17A-3-12b of the Code of West Virginia, 1931, as amended, relating to establishing a
procedure whereby mobile and manufactured homes may be retitled provided certain conditions are met.

Be it enacted by the Legislature of West Virginia:

That §17A-3-12b of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-12b. Canceled certificates of title for certain mobile and manufactured homes; reissuance of certificates of title; procedure.

(a) The commissioner may cancel a certificate of title for a mobile or manufactured home affixed to the real property of the owner of the mobile or manufactured home. The person requesting the cancellation shall submit to the commissioner an application for cancellation together with the certificate of title. The application shall be on a form prescribed by the commissioner. The commissioner shall return one copy of the cancellation certificate to the owner and shall send a copy of the cancellation certificate to the clerk of the county commission to be recorded and indexed in the same manner as a deed, with the owner’s name being indexed in the grantor index. The commissioner shall charge a fee of $10 per certificate of title canceled. The clerk shall return a copy of the recorded cancellation certificate to the owner, unless there is a lien attached to the mobile or manufactured home, in which case the copy of the recorded cancellation certificate shall be returned to the lienholder. Upon its recording in the county clerk’s office, the mobile or manufactured home shall be treated for all purposes as an appurtenance to the real estate to which it is affixed and be transferred only as real estate and the ownership interest in the mobile or manufactured home, together with all liens and encumbrances on the home, shall be transferred to and
shall encumber the real property to which the mobile or manufactured home has become affixed.

(b) The commissioner shall reinstate and reissue any title for a mobile home or manufactured home which was previously titled in this state and for which the title was canceled pursuant to this section when the owner of the mobile or manufactured home seeks to sever the home from the real property and applies for a certificate of title in accordance with the provisions of this section. For purposes of this subsection, “owner” means the owner, secured lender of foreclosed or surrendered property, owner of real property who takes possession of an abandoned manufactured home on the property or other person who has the legal right to the manufactured home through legal process.

(1) The owner shall file with the clerk of the county commission where the real property is located an affidavit that includes or provides for all of the following information:

(A) The manufacturer and, if applicable, the model name of the mobile or manufactured home;

(B) The vehicle identification number and serial number of the mobile or manufactured home;

(C) The legal description of the real property on which the mobile or manufactured home is or was placed, stating that the owner of the mobile home or manufactured home also owns the real property;

(D) Certification that there are no security interests in the mobile home or manufactured home that have not been released by the secured party; and

(E) A statement by the owner that the home has been or will be physically severed from the real property.
(2) The owner must submit the following to the commissioner:

(A) A copy of the affidavit filed in accordance with subdivision (1) of this subsection; and

(B) Verification that the manufactured home has been severed from the real property. Confirmation of severance by the assessor where the real property is located is acceptable evidence that the unit has been severed from the real property.

(3) Upon receipt of the information required in subdivision (2) of this subsection, together with a title application and required fee, the commissioner shall issue a new title for the manufactured home.

CHAPTER 152

(Com. Sub. for H. B. 2402 - By Delegates Howell, Frich, Eldridge and Phillips)

[Passed April 8, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 25, 2017.]

AN ACT to amend and reenact §17-24A-1 and §17-24A-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §17-24A-6a; and to amend and reenact §17A-4-10 of said code, all relating to abandoned motor vehicles; adding new definitions; establishing a process for automobile auctions to obtain title to and sell motor vehicles abandoned on its premises; creating a special procedure for a person to apply for and receive title to an abandoned antique motor vehicle valued at $7,500 or less; providing for the issuance of a Vehicle Removal Certificate to remove an antique motor vehicle from private property with permission of the property owner; providing
that the Division of Motor Vehicles to search for the owner and lienholders of the motor vehicle and provide notice of the application for title to the vehicle; creating a procedure for the owner or lienholders to reclaim the vehicle within 30 days of notice of an application for title to the vehicle; establishing fees to accompany an application for title to the vehicle; establishing fees for reclamation of the vehicle by owner or lienholder; creating a misdemeanor offense of interference with a person who has acquired title to an antique motor vehicle attempting to recover the vehicle from private property and establishing penalties upon conviction thereof; directing the division to promulgate rules and forms to effectuate new procedure; allowing an insurance company to obtain a salvage certificate or a cosmetic total loss salvage certificate after paying a total loss claim on a vehicle; and creating a process by which an automobile auction may apply for and obtain a salvage certificate or a nonrepairable motor vehicle certificate for certain vehicles on its property received from an insurer who subsequently denies a claim on the vehicle or otherwise does not obtain ownership of the vehicle; and providing for indemnity by the applicant to the Division of Motor Vehicles for the erroneous issuance of such title.

Be it enacted by the Legislature of West Virginia:

That §17-24A-1 and §17-24A-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be further amended by adding thereto a new section, designated §17-24A-6a; and to amend and reenact §17A-4-10 of said code, all to read as follows:

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 24A. DISPOSAL OF ABANDONED MOTOR VEHICLES, JUNKED MOTOR VEHICLES, AND ABANDONED OR INOPERATIVE HOUSEHOLD APPLIANCES.

Unless the context clearly indicates a different meaning, as used in this article:

(1) “Commissioner” means the Commissioner of the Division of Highways or his or her designee.

(2) “Abandoned household appliance” means a refrigerator, freezer, range, stove, automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air conditioning unit, commode, bed springs, mattress or other furniture, fixtures or appliances to which no person claims ownership and which is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher.

(3) “Abandoned motor vehicle” means any motor vehicle, or major part thereof, which is inoperative and which has been abandoned on public property for any period over five days, other than in an enclosed building or in a licensed salvage yard or at the business establishment of a demolisher; or any motor vehicle, or major part thereof, which has remained on private property without consent of the owner or person in control of the property for any period over five days; or any motor vehicle, or major part thereof, which is unattended, discarded, deserted and unlicensed and is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher: Provided, That a motor vehicle, or major part thereof, is not an abandoned motor vehicle if: (a) The owner of the motor vehicle is storing the motor vehicle on the owner’s property; (b) the motor vehicle is being stored for the purpose of using its parts on other motor vehicles owned by the owner; (c) the owner owns other motor vehicles similar to the motor vehicle being stored; and (d) the owner is a business licensed to do business in the State of West Virginia and not in the primary business of offering motor vehicles or parts thereof for sale.

(4) “Abandoned antique motor vehicle” means a vehicle that qualifies as both an abandoned motor vehicle and an antique motor vehicle.
(5) "Antique motor vehicle" means a vehicle that was manufactured more than twenty-five years before the current date.

(6) “Demolisher” means any person licensed by the Commissioner of the Division of Highways whose business, to any extent or degree, is to convert a motor vehicle or any part thereof or an inoperative household appliance into processed scrap or scrap metal or into saleable parts or otherwise to wreck or dismantle vehicles or appliances.

(7) The "Division" means the West Virginia Division of Motor Vehicles.

(8) “Enclosed building” means a structure surrounded by walls or one continuous wall and having a roof enclosing the entire structure and includes a permanent appendage thereto.

(9) “Enforcement agency” means any of the following or any combination of the following:

(a) Public law-enforcement officers of this state, including natural resources police officers;

(b) Public law-enforcement officers of any county, city or town within this state; and

(c) The Commissioner of the Division of Highways, his or her duly authorized agents and employees.

(10) “Inoperative household appliance” means a refrigerator, freezer, range, stove, automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air conditioning unit, commode, bed springs, mattress or other furniture, fixture or appliance which by reason of mechanical or physical defects can no longer be used for its intended purpose and which is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher.
“Junked motor vehicle” means a motor vehicle, or any part thereof which: (a) Is discarded, wrecked, ruined, scrapped or dismantled; (b) cannot pass the state inspection required by article sixteen, chapter seventeen-c of this code; and (c) is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher: Provided, That a motor vehicle, or major part thereof, is not a junked motor vehicle if: (a) The owner of the motor vehicle is storing the motor vehicle on the owner’s property; (b) the motor vehicle is being stored for the purpose of using its parts on other motor vehicles owned by the owner; (c) the owner owns other motor vehicles similar to the motor vehicle being stored; and (d) the owner is a business licensed to do business in the State of West Virginia and not in the primary business of offering motor vehicles or parts thereof for sale.

“Licensed salvage yard” means a salvage yard licensed under article twenty-three of this chapter.

“Motor vehicle” means a vehicle which is or was self-propelled, including, but not limited to, automobiles, trucks, buses and motorcycles.

“Person” means a natural person, corporation, firm, partnership, association or society and the plural as well as the singular.

“Vehicle Identification Number” means a unique number or mark placed on a vehicle or part thereof by the manufacturer so as to identify it particularly and distinguish the vehicle or part from all other such vehicles or parts.

§17-24A-4. Abandoned or junked motor vehicles; notification to motor vehicle owner and lienholder; charges and fees; exceptions.

(a) The enforcement agency which takes into custody and possession an abandoned motor vehicle or junked motor vehicle shall, within fifteen days after taking custody and
possession thereof, notify the last-known registered owner of the motor vehicle and all lienholders of record that the motor vehicle has been taken into custody and possession, the notification to be by registered or certified mail, return receipt requested. The notice shall:

(1) Contain a description of the motor vehicle, including the year, make, model, manufacturer’s serial or identification number or any other number which may have been assigned to the motor vehicle by the Commissioner of Motor Vehicles and any distinguishing marks;

(2) Set forth the location of the facility where the motor vehicle is being held and the location where the motor vehicle was taken into custody and possession;

(3) Inform the owner and any lienholders of record of their right to reclaim the motor vehicle within ten days after the date notice was received by the owner or lienholders, upon payment of all towing, preservation and storage charges resulting from taking and placing the motor vehicle into custody and possession; and

(4) State that the failure of the owner or lienholders of record to exercise their right to reclaim the motor vehicle within the ten-day period shall be deemed a waiver by the owner and all lienholders of record of all right, title and interest in the motor vehicle and of their consent to the sale or disposal of the abandoned motor vehicle or junked motor vehicle at a public auction or to a licensed salvage yard or demolisher.

(b) If the identity of the last registered owner of the abandoned motor vehicle or junked motor vehicle cannot be determined or if the certificate of registration or certificate of title contains no address for the owner or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this
code, the publication area shall be the county wherein the
motor vehicle was located at the time the enforcement
agency took custody and possession thereof and the notice
shall be sufficient to meet all requirements of notice
pursuant to this article. Any notice by publication may
contain multiple listings of abandoned motor vehicles and
junked motor vehicles. The notice shall be published within
fifteen days after the motor vehicle is taken into custody and
possession and shall have the same contents required for a
notice pursuant to subsection (a) of this section, except that
the ten-day period shall run from the date the notice is
published as aforesaid.

(c) An enforcement agency which hires any person or
entity to take into custody and possession an abandoned
motor vehicle or junked motor vehicle pursuant to this
section shall notify the person or entity hired of the name
and address of the registered owner of the motor vehicle, if
known, and all lienholders of record, if any, within fifteen
days after the vehicle is taken into custody and possession:
Provided, That the requirements of this subsection shall not
apply to motor vehicles for which the registered owner
cannot be ascertained by due diligence or investigation.

(d) The person or entity hired by an enforcement agency
to take into custody or possession an abandoned motor
vehicle or junked motor vehicle shall, within thirty days
after the possession, notify the registered owner of the
vehicle and all lienholders of record, if any, as identified by
the enforcement agency pursuant to subsection (c) of this
section, by registered mail, return receipt requested, that the
motor vehicle has been taken into custody and possession.
The notice shall have the same contents required for a notice
pursuant to subsection (a) of this section, including the ten-
day period the owner or lienholder has to reclaim the motor
vehicle. Upon the issuance of the notice, the identified
owner of the motor vehicle is liable and responsible for all
costs for towing, preservation and storage of the motor
vehicle: Provided, That failure to issue the notice required
by this subsection within thirty days after possession of the
motor vehicle relieves the identified owner of the motor
vehicle of any liability for charges for towing, preservation
and storage in excess of the sum of the first five days of the
charges: Provided, however, That the requirements of this
subsection do not apply to motor vehicles for which the
registered owner thereof cannot be ascertained by due
diligence or investigation.

(e) For an abandoned motor vehicle or junked vehicle
having a loan value of $7,500 or less, as ascertained by
values placed upon motor vehicles using a standard industry
reference book, a person or entity hired by an enforcement
agency to tow the abandoned motor vehicle or junked motor
vehicle may, if the motor vehicle is not claimed by the
owner or a lienholder after notice within the time set forth
in subsection (d) of this section or if the identity of the last
registered owner of the abandoned motor vehicle or junked
motor vehicle cannot be determined or if the certificate of
registration or certificate of title contains no address of the
owner or if it is impossible to determine with reasonable
certainty the identity and address of all lienholders after
publication as set forth in subsection (b) of this section, file
an application with the Division of Motor Vehicles for a
certificate of title and registration which, upon payment of
the appropriate fees, shall be issued. The person or entity
may then sell the motor vehicle at private sale or public
auction.

(f) A licensed motor vehicle dealer, as defined in section
one, article one, chapter seventeen-a of this code, a licensed
automobile auction as defined in section one, article six-c,
chapter seventeen-a of this code, or a motor vehicle repair
facility or a towing company registered with the Public
Service Commission pursuant to section two-a, article two,
chapter twenty-four-a of this code may file an application
with the Division of Motor Vehicles for a certificate of title
and registration for an abandoned motor vehicle or junked
vehicle. Upon payment of the appropriate fees, the division
shall deliver the certificate of title and registration to the applicant, if:

(1) The vehicle has a loan value of $9,500 or less, as ascertained by values placed upon motor vehicles using a standard industry reference book; and

(2) The motor vehicle is abandoned on the property or place of business of the dealer, licensed automobile auction, motor vehicle repair facility or towing company; and

(3) This amount will be increased every five years on September 1 of the fifth year based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index; and

(4) One of the following situations applies:

(A) The identity of the last registered owner of the abandoned motor vehicle cannot be determined; or

(B) The certificate of registration or certificate of title contains no address of the owner; or

(C) It is impossible to determine with reasonable certainty the identity and address of all lienholders after publication as set forth in subsection (b) of this section.

(D) The motor vehicle is not claimed by the owner or a lienholder after notice within the time set forth in subsection (d) of this section.

(g) Upon receipt of the certificate of title and registration, the dealer, licensed automobile auction, motor vehicle repair facility or towing company may sell the vehicle at private sale or public auction.

(h) For purposes of this section motor vehicle repair facilities and towing companies are not used motor vehicle dealers as that term is defined by subdivision (2), subsection (a), section one, article six, chapter seventeen-a of this code.
§17-24A-6a. Title to abandoned antique motor vehicle; special procedure; notice to owner; fees; criminal penalties.

(a) Application for Title to Abandoned Antique Motor Vehicle. —

1. A person may apply to the division for ownership and title to an abandoned antique motor vehicle if that person:

   (A) Is the owner of private property on which the vehicle is located; or

   (B) Has obtained a valid Vehicle Removal Certificate from the division.

2. The application shall include the following:

   (A) The name, address and other contact information of the applicant;

   (B) The year, make, model, Vehicle Identification Number and any other identifying marks on the vehicle: Provided, That if there is no Vehicle Identification Number, the applicant shall provide all information available or reasonably ascertainable to identify the year, make and model of the vehicle; and

   (C) Any other information required by the division.

3. Upon application for title to an abandoned antique motor vehicle, the applicant shall pay a fee of $100 to the division.

(b) Vehicle Removal Certificate. — In a manner prescribed by the division, a person may apply for a Vehicle Removal Certificate at no fee, by presenting records sufficient to demonstrate to a reasonable degree of certainty that the owner of the private property on which an abandoned antique motor vehicle is located has given the
applicant written permission to remove the vehicle from the private property.

(c) Search for Owner and Lienholders; Notice. —

(1) Upon receipt of an application for title to an abandoned antique motor vehicle, the division shall initiate a search for the last owner of the vehicle and any lienholders of record of the vehicle, using the year, make, model, Vehicle Identification Number and any other identifying marks on the vehicle, and, if there is no Vehicle Identification Number, the information provided on the application related to the year, make and model of the motor vehicle that was available to the applicant. The division shall, at a minimum, search:

(A) Its own records;

(B) The records of a nationally recognized crime database; and

(C) Records of a nationally recognized motor vehicle title database for owner information.

(2) If, in the course of a search, the division discovers that the vehicle has been reported as stolen, the division shall notify the appropriate law-enforcement agency of that fact.

(3) If the division determines the identity and address of the owner and any lienholder, the division shall, by certified mail with return receipt requested, notify the owner and any lienholder of the application for title to the vehicle and the contact information for the owner of the property on which the vehicle is located. Such notice, when sent in accordance with these requirements, shall be sufficient regardless of whether or not it was ever received. The owner or lienholder will then have the following options, which shall be detailed in the division’s letter of notice:
(A) Pay a $100 fee to the division, $50 of which shall be awarded to the applicant, and reclaim and remove the vehicle from private property within 30 days of the date of receiving notice at a time and in a manner arranged with the owner of the private property; or

(B) Waives all right, title, and interest in the motor vehicle, and the right, title, and interest in the vehicle shall be transferred to the applicant, free of all liens and encumbrances.

(4) If the division performs a search pursuant to this subsection and the identity and address of the owner cannot be determined with reasonable certainty, the division shall immediately transfer all right, title, and interest in the vehicle to the applicant, free and clear of all liens and encumbrances.

(d) Rules and Forms. —

(1) The division shall promulgate rules necessary to carry out this section, and shall create the following forms:

(A) A form to apply for the title to an abandoned antique vehicle, which shall require an applicant to provide the following information:

(i) The applicant’s legal name and contact information;

(ii) The Vehicle Identification Number: Provided, That if the vehicle does not have a Vehicle Identification Number, the applicant shall follow the procedure set forth in subdivisions (2) and (3) of this subsection;

(iii) The year, make and model of the vehicle;

(iv) The current location of the vehicle; and

(v) The current contact information for the owner of the private property on which the vehicle is located.
(B) A Vehicle Removal Certificate, which shall be issued to a person who presents the records required by subsection (b) of this section and shall require the following information:

(i) The applicant’s legal name and contact information;

(ii) The Vehicle Identification Number: Provided, That if the vehicle does not have a Vehicle Identification Number, the applicant shall follow the procedure set forth in subdivisions (2) and (3) of this subsection;

(iii) The year, make and model of the vehicle;

(iv) The current location of the vehicle; and

(v) The current contact information for the owner of the private property on which the vehicle is located.

(2) If an applicant or person requesting a Vehicle Removal Certificate cannot, after reasonable efforts, determine the Vehicle Identification Number of the vehicle, the person may pay a $100 fee to the West Virginia State Police to inspect the vehicle, determine, in the sole discretion of the division, the year, make and model of the motor vehicle using all information available or reasonably ascertainable and assign the motor vehicle a new Vehicle Identification Number.

(3) If the West Virginia State Police cannot locate a Vehicle Identification Number on an abandoned antique vehicle, the West Virginia State Police shall verify in writing that the vehicle has no Vehicle Identification Number. The applicant may then present the written verification to the division, which shall then issue a new Vehicle Identification Number for the vehicle pursuant to section twenty, article three, chapter seventeen-a of this code.

(e) Obstruction of removal of vehicle from private property prohibited. — No person shall knowingly interfere
with a person who has acquired title to an antique motor
vehicle and is reclaiming and removing a vehicle from
private property pursuant to the procedures set forth in this
section. Any person violating this subsection is guilty of a
misdemeanor and, upon conviction thereof, shall be fined
$500.

CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE, AND
ANTITHEFT PROVISIONS.

ARTICLE 4. TRANSFERS OF TITLE OR INTEREST.

§17A-4-10. Salvage certificates for certain wrecked or
damaged vehicles; fee; penalty.

(a) In the event a motor vehicle is determined to be a
total loss or otherwise designated as totaled by an insurance
company or insurer, and upon payment of a total loss claim
to an insured or claimant owner for the purchase of the
vehicle, the insurance company or the insurer, as a condition
of the payment, shall require the owner to surrender the
certificate of title: Provided, That an insured or claimant
owner may choose to retain physical possession and
ownership of a total loss vehicle. If the vehicle owner
chooses to retain the vehicle and the vehicle has not been
determined to be a cosmetic total loss in accordance with
subsection (d) of this section, the insurance company or
insurer shall also require the owner to surrender the vehicle
registration certificate. The term total loss means a motor
vehicle which has sustained damages equivalent to seventy-
five percent or more of the market value as determined by a
nationally accepted used car value guide or meets the
definition of a flood-damaged vehicle as defined in this
section.

(b) The insurance company or insurer shall, prior to the
payment of the total loss claim, determine if the vehicle is
repairable, cosmetically damaged or nonrepairable. Except
as provided in subsection (p) of this section, within ten days
of payment of the total loss claim, the insurance company
or insurer shall surrender the certificate of title, a copy of
the claim settlement, a completed application on a form
prescribed by the commissioner and the registration
certificate if the owner has chosen to keep the vehicle to the
Division of Motor Vehicles.

(c) If the insurance company or insurer determines that
the vehicle is repairable, the division shall issue a salvage
certificate, on a form prescribed by the commissioner, in the
name of the insurance company, the insurer or the vehicle
owner if the owner has chosen to retain the vehicle. The
certificate shall contain, on the reverse, spaces for one
successive assignment before a new certificate at an
additional fee is required. Upon the sale of the vehicle, the
insurance company, insurer or vehicle owner if the owner
has chosen to retain the vehicle, shall complete the
assignment of ownership on the salvage certificate and
deliver it to the purchaser. The vehicle may not be titled or
registered for operation on the streets or highways of this
state unless there is compliance with subsection (h) of this
section. The division shall charge a fee of $15 for each
salvage title issued.

(d) If the insurance company or insurer determines the
damage to a totaled vehicle is exclusively cosmetic and no
repair is necessary in order to legally and safely operate the
motor vehicle on the roads and highways of this state, the
insurance company or insurer shall, upon payment of the
claim, submit the certificate of title to the division. Neither
the insurance company nor the division may require the
vehicle owner to surrender the registration certificate in the
event of a cosmetic total loss settlement.

(1) The division shall, without further inspection, issue
a title branded cosmetic total loss to the insured or claimant
owner if the insured or claimant owner wishes to retain
possession of the vehicle, in lieu of a salvage certificate. The
division shall charge a fee of $5 for each cosmetic total loss
title issued. The terms cosmetically damaged and cosmetic
total loss do not include any vehicle which has been damaged by flood or fire. The designation cosmetic total loss on a title may not be removed.

(2) If the insured or claimant owner elects not to take possession of the vehicle and the insurance company or insurer retains possession, the division shall issue a cosmetic total loss salvage certificate to the insurance company or insurer. The division shall charge a fee of $15 for each cosmetic total loss salvage certificate issued. The division shall, upon surrender of the cosmetic total loss salvage certificate issued under the provisions of this paragraph and payment of the five percent motor vehicle sales tax on the fair market value of the vehicle as determined by the commissioner, issue a title branded cosmetic total loss without further inspection.

(e) If the insurance company or insurer determines that the damage to a totaled vehicle renders it nonrepairable, incapable of safe operation for use on roads and highways and as having no resale value except as a source of parts or scrap, the insurance company or vehicle owner shall, in the manner prescribed by the commissioner, request that the division issue a nonrepairable motor vehicle certificate in lieu of a salvage certificate. The division shall issue a nonrepairable motor vehicle certificate without charge.

(f) Any owner who scraps, compresses, dismantles or destroys a vehicle without further transfer or sale for which a certificate of title, nonrepairable motor vehicle certificate or salvage certificate has been issued shall, within forty-five days, surrender the certificate of title, nonrepairable motor vehicle certificate or salvage certificate to the division for cancellation.

(g) Any person who purchases or acquires a vehicle as salvage or scrap, to be dismantled, compressed or destroyed, shall, within forty-five days, surrender to the division the certificate of title, nonrepairable motor vehicle certificate, salvage certificate or a statement of cancellation signed by
the seller, on a form prescribed by the commissioner. Subsequent purchasers of salvage or scrap are not required to comply with the notification requirement.

(h) If the motor vehicle is a reconstructed vehicle as defined in this section or section one, article one of this chapter, it may not be titled or registered for operation until it has been inspected by an official state inspection station and by the Division of Motor Vehicles. Following an approved inspection, an application for a new certificate of title may be submitted to the division. The applicant is required to retain all receipts for component parts, equipment and materials used in the reconstruction. The salvage certificate shall also be surrendered to the division before a certificate of title may be issued with the appropriate brand.

(i) The owner or title holder of a motor vehicle titled in this state which has previously been branded in this state or another state as salvage, reconstructed, cosmetic total loss, cosmetic total loss salvage, flood, fire, an equivalent term under another state’s laws or a term consistent with the intent of the National Motor Vehicle Title Information System established pursuant to 49 U. S. C.§30502 shall, upon becoming aware of the brand, apply for and receive a title from the Division of Motor Vehicles on which the brand “reconstructed,” “salvage,” “cosmetic total loss,” “cosmetic total loss salvage,” “flood,” “fire” or other brand is shown. The division shall charge a fee of $5 for each title so issued.

(j) If application is made for title to a motor vehicle, the title to which has previously been branded reconstructed, salvage, cosmetic total loss, cosmetic total loss salvage, flood, fire or other brand by the Division of Motor Vehicles under this section and said application is accompanied by a title from another state which does not carry the brand, the division shall, before issuing the title, affix the brand “reconstructed,” “cosmetic total loss,” “cosmetic total loss salvage,” “flood,” “fire” or other brand to the title. The
motor vehicle sales tax paid on a motor vehicle titled as reconstructed, cosmetic total loss, flood, fire or other brand under the provisions of this section shall be based on fifty percent of the fair market value of the vehicle as determined by a nationally accepted used car value guide to be used by the commissioner.

(k) The division shall charge a fee of $15 for the issuance of each salvage certificate or cosmetic total loss salvage certificate but shall not require the payment of the five percent motor vehicle sales tax. However, upon application for a certificate of title for a reconstructed, cosmetic total loss, flood or fire damaged vehicle or other brand, the division shall collect the five percent privilege tax on the fair market value of the vehicle as determined by the commissioner unless the applicant is otherwise exempt from the payment of such privilege tax. A wrecker/dismantler/rebuilder, licensed by the division, is exempt from the payment of the five percent privilege tax upon titling a reconstructed vehicle. The division shall collect a fee of $35 per vehicle for inspections of reconstructed vehicles. These fees shall be deposited in a special fund created in the State Treasurer’s Office and may be expended by the division to carry out the provisions of this article: Provided, That on and after July 1, 2007, any balance in the special fund and all fees collected pursuant to this section shall be deposited in the State Road Fund. Licensed wreckers/dismantlers/rebuilders may charge a fee not to exceed $25 for all vehicles owned by private rebuilders which are inspected at the place of business of a wrecker/dismantler/rebuilder.

(l) As used in this section:

(1) “Reconstructed vehicle” means the vehicle was totaled under the provisions of this section or by the provisions of another state or jurisdiction and has been rebuilt in accordance with the provisions of this section or in accordance with the provisions of another state or
jurisdiction or meets the provisions of subsection (n), section one, article one of this chapter.

(2) “Flood-damaged vehicle” means that the vehicle was submerged in water to the extent that water entered the passenger or trunk compartment.

(3) “Other brand” means a brand consistent with the intent of the National Motor Vehicle Title Information System established pursuant to 49 U. S. C. §30502 and rules promulgated by the United States Department of Justice to alert consumers, motor vehicle dealers or the insurance industry of the history of a vehicle.

(m) Every vehicle owner shall comply with the branding requirements for a totaled vehicle whether or not the owner receives an insurance claim settlement for a totaled vehicle.

(n) A certificate of title issued by the division for a reconstructed vehicle shall contain markings in bold print on the face of the title that it is for a reconstructed, flood- or fire-damaged vehicle.

(o) Any person who knowingly provides false or fraudulent information to the division that is required by this section in an application for a title, a cosmetic total loss title, a reconstructed vehicle title or a salvage certificate or who knowingly fails to disclose to the division information required by this section to be included in the application or who otherwise violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall for each incident be fined not less than $1,000 nor more than $2,500, or imprisoned in jail for not more than one year, or both fined and imprisoned.

(p) Notwithstanding any other provision of law and with respect to a vehicle which the vehicle owner has not chosen to retain, if an insurance company or insurer is unable to obtain the properly endorsed certificate of title for a motor vehicle within thirty days of the payment of a total loss
claim, the insurance company or insurer, at any time thereafter, may apply to the Division of Motor Vehicles for a salvage certificate, a cosmetic total loss salvage certificate or a nonrepairable motor vehicle certificate, as applicable. The application shall be accompanied by evidence that the insurance company or insurer has paid a total loss claim on the vehicle, a copy of a written request for the certificate of title sent to the vehicle owner and any known lienholder by the insurance company or insurer or a designee of the insurance company or insurer, proof that the request was sent by certified mail, return receipt requested, to the last known address of the vehicle owner and any known lienholder, service to be complete upon the mailing thereof, and the required fee, if applicable. Upon receipt of a properly completed application, the division shall issue a salvage certificate, a cosmetic total loss salvage certificate or a nonrepairable motor vehicle certificate, as applicable, in the name of the insurance company or insurer. Such salvage certificate, cosmetic total loss salvage certificate or nonrepairable motor vehicle certificate shall be issued free and clear of all liens and claims of ownership.

(q) If an insurance company or insurer requests that an automobile auction take possession of a motor vehicle that is the subject of an insurance claim, and subsequently the insurance company denies coverage with respect to the motor vehicle or otherwise does not take ownership of the motor vehicle, the automobile auction may proceed as follows. At any time after the automobile auction has had possession of the motor vehicle for forty-five days, it may apply to the division for a salvage certificate or a nonrepairable motor vehicle certificate without surrendering the certificate of title for the motor vehicle. The application shall be accompanied by a copy of a written request, on the automobile auction’s letterhead, requesting that, upon payment of applicable charges, the vehicle be removed from the automobile auction’s facility, proof that the request was delivered by a nationally-recognized courier service or by certified mail to the vehicle owner and any
known lienholder at least fifteen days before the date of the application, and the required fee, if applicable. Upon receipt of a properly completed application, the division shall issue a salvage certificate or a nonrepairable motor vehicle certificate, as applicable, in the name of the automobile auction. Such salvage certificate or nonrepairable motor vehicle certificate shall be issued free and clear of all liens and claims of ownership.

(r) An applicant pursuant to subsection (p) or (q) of this section shall indemnify and hold harmless the Division of Motor Vehicles from any liability arising from an error or misrepresentation made by such applicant in a submission to the division pursuant to subsection (p) or (q) of this section.

CHAPTER 153

(Com. Sub. for H. B. 2180 - By Delegates Rodighiero, Marcum, Eldridge, Phillips, Maynard and Westfall)

[Passed April 4, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 11, 2017.]

AN ACT to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to the issuance of “In God We Trust” and “Friends of Coal” motor vehicle registration plates.

Be it enacted by the Legislature of West Virginia:

That §17A-3-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.
§17A-3-14. Registration plates generally; description of plates; issuance of special numbers and plates; registration fees; special application fees; exemptions; commissioner to promulgate forms; suspension and nonrenewal.

(a) The division upon registering a vehicle shall issue to the owner one registration plate for a motorcycle, trailer, semitrailer or other motor vehicle.

(b) Registration plates issued by the division shall meet the following requirements:

(1) Every registration plate shall be of reflectorized material and have displayed upon it the registration number assigned to the vehicle for which it is issued; the name of this state, which may be abbreviated; and the year number for which it is issued or the date of expiration of the plate.

(2) Every registration plate and the required letters and numerals on the plate shall be of sufficient size to be plainly readable from a distance of one hundred feet during daylight: Provided, That the requirements of this subdivision shall not apply to the year number for which the plate is issued or the date of expiration.

(3) Registration numbering for registration plates shall begin with number two.

(c) The division may not issue, permit to be issued or distribute any special registration plates except as follows:

(1) The Governor shall be issued two registration plates, on one of which shall be imprinted the numeral one and on the other the word one.

(2) State officials and judges may be issued special registration plates as follows:

(A) Upon appropriate application, the division shall issue to the Secretary of State, State Superintendent of Schools, Auditor, Treasurer, Commissioner of Agriculture
and the Attorney General, the members of both houses of
the Legislature, including the elected officials of both
houses of the Legislature, the justices of the Supreme Court
of Appeals of West Virginia, the representatives and
senators of the state in the Congress of the United States, the
judges of the West Virginia circuit courts, active and retired
on senior status, the judges of the United States district
courts for the State of West Virginia and the judges of the
United States Court of Appeals for the fourth circuit, if any
of the judges are residents of West Virginia, a special
registration plate for a Class A motor vehicle and a special
registration plate for a Class G motorcycle owned by the
official or his or her spouse: Provided, That the division
may issue a Class A special registration plate for each
vehicle titled to the official and a Class G special
registration plate for each motorcycle titled to the official.

(B) Each plate issued pursuant to this subdivision shall
bear any combination of letters and numbers not to exceed
an amount determined by the commissioner and a
designation of the office. Each plate shall supersede the
regular numbered plate assigned to the official or his or her
spouse during the official’s term of office and while the
motor vehicle is owned by the official or his or her spouse.

(C) The division shall charge an annual fee of $15 for
every registration plate issued pursuant to this subdivision,
which is in addition to all other fees required by this chapter.

(3) The division may issue members of the National
Guard forces special registration plates as follows:

(A) Upon receipt of an application on a form prescribed
by the division and receipt of written evidence from the
chief executive officer of the Army National Guard or Air
National Guard, as appropriate, or the commanding officer
of any United States Armed Forces reserve unit that the
applicant is a member thereof, the division shall issue to any
member of the National Guard of this state or a member of
any reserve unit of the United States Armed Forces a special
registration plate designed by the commissioner for any number of Class A motor vehicles owned by the member. Upon presentation of written evidence of retirement status, retired members of this state’s Army or Air National Guard, or retired members of any reserve unit of the United States Armed Forces, are eligible to purchase the special registration plate issued pursuant to this subdivision.

(B) The division shall charge an initial application fee of $10 for each special registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter. Except as otherwise provided herein, effective July 1, 2007, all fees currently held in the special revolving fund used in the administration of this section and all fees collected by the division shall be deposited in the State Road Fund.

(C) A surviving spouse may continue to use his or her deceased spouse’s National Guard forces license plate until the surviving spouse dies, remaries or does not renew the license plate.

(4) Specially arranged registration plates may be issued as follows:

(A) Upon appropriate application, any owner of a motor vehicle subject to Class A registration, or a motorcycle subject to Class G registration, as defined by this article, may request that the division issue a registration plate bearing specially arranged letters or numbers with the maximum number of letters or numbers to be determined by the commissioner. The division shall attempt to comply with the request wherever possible.

(B) The commissioner shall propose rules for legislative approval in accordance with the provisions of chapter twenty-nine-a of this code regarding the orderly distribution of the plates: Provided, That for purposes of this subdivision, the registration plates requested and issued
shall include all plates bearing the numbers two through two thousand.

(C) An annual fee of $15 shall be charged for each special registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter.

(5) The division may issue honorably discharged veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged veteran of any branch of the armed services of the United States a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee is to compensate the Division of Motor Vehicles for additional costs and services required in the issuing of the special registration. All fees collected by the division shall be deposited in the State Road Fund: Provided, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse’s honorably discharged veterans license plate until the surviving spouse dies, remarries or does not renew the license plate.

(6) The division may issue disabled veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any disabled veteran who is exempt from the payment of registration fees under the provisions of this chapter a registration plate for a vehicle titled in the name of the qualified applicant which bears the letters “DV” in red and also the regular identification numerals in red.
(B) A surviving spouse may continue to use his or her deceased spouse’s disabled veterans license plate until the surviving spouse dies, remarries or does not renew the license plate.

(C) A qualified disabled veteran may obtain a second disabled veterans license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of $10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(7) The division may issue recipients of the distinguished Purple Heart medal special registration plates as follows:

(A) Upon appropriate application, there shall be issued to any armed service person holding the distinguished Purple Heart medal for persons wounded in combat a registration plate for a vehicle titled in the name of the qualified applicant bearing letters or numbers. The registration plate shall be designed by the Commissioner of Motor Vehicles and shall denote that those individuals who are granted this special registration plate are recipients of the Purple Heart. All letterings shall be in purple where practical.

(B) Registration plates issued pursuant to this subdivision are exempt from all registration fees otherwise required by the provisions of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse’s Purple Heart medal license plate until the surviving spouse dies, remarries or does not renew the license plate.

(D) A recipient of the Purple Heart medal may obtain a second Purple Heart medal license plate as described in this section for use on a passenger vehicle titled in the name of
the qualified applicant. The division shall charge a one-time fee of $10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(8) The division may issue survivors of the attack on Pearl Harbor special registration plates as follows:

(A) Upon appropriate application, the owner of a motor vehicle who was enlisted in any branch of the armed services that participated in and survived the attack on Pearl Harbor on December 7, 1941, the division shall issue a special registration plate for a vehicle titled in the name of the qualified applicant. The registration plate shall be designed by the Commissioner of Motor Vehicles.

(B) Registration plates issued pursuant to this subdivision are exempt from the payment of all registration fees otherwise required by the provisions of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse’s survivors of the attack on Pearl Harbor license plate until the surviving spouse dies, remarries or does not renew the license plate.

(D) A survivor of the attack on Pearl Harbor may obtain a second survivors of the attack on Pearl Harbor license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of $10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(9) The division may issue special registration plates to nonprofit charitable and educational organizations authorized under prior enactment of this subdivision as follows:

(A) Approved nonprofit charitable and educational organizations previously authorized under the prior enactment of this subdivision may accept and collect
applications for special registration plates from owners of Class A motor vehicles together with a special annual fee of $15, which is in addition to all other fees required by this chapter. The applications and fees shall be submitted to the Division of Motor Vehicles with the request that the division issue a registration plate bearing a combination of letters or numbers with the organizations’ logo or emblem, with the maximum number of letters or numbers to be determined by the commissioner.

(B) The commissioner shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code regarding the procedures for and approval of special registration plates issued pursuant to this subdivision.

(C) The commissioner shall set an appropriate fee to defray the administrative costs associated with designing and manufacturing special registration plates for a nonprofit charitable or educational organization. The nonprofit charitable or educational organization shall collect this fee and forward it to the division for deposit in the State Road Fund. The nonprofit charitable or educational organization may also collect a fee for marketing the special registration plates.

(10) The division may issue specified emergency or volunteer registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified paramedic or emergency medical technician, a member of a paid fire department, a member of the State Fire Commission, the State Fire Marshal, the State Fire Marshal’s assistants, the State Fire Administrator and voluntary rescue squad members may apply for a special license plate for any number of Class A vehicles titled in the name of the qualified applicant which bears the insignia of the profession, group or commission. Any insignia shall be designed by the commissioner. License plates issued
pursuant to this subdivision shall bear the requested insignia in addition to the registration number issued to the applicant pursuant to the provisions of this article.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit signed by the fire chief or department head of the applicant stating that the applicant is justified in having a registration with the requested insignia; proof of compliance with all laws of this state regarding registration and licensure of motor vehicles; and payment of all required fees.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of $10, which is in addition to any other registration or license fee required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(11) The division may issue specified certified firefighter registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified firefighter may apply for a special license plate which bears the insignia of the profession, for any number of Class A vehicles titled in the name of the qualified applicant. Any insignia shall be designed by the commissioner. License plates issued pursuant to this subdivision shall bear the requested insignia pursuant to the provisions of this article. Upon presentation of written evidence of certification as a certified firefighter, certified firefighters are eligible to purchase the special registration plate issued pursuant to this subdivision.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit stating that the applicant is justified in having a registration with the requested insignia; proof of compliance with all laws of this state regarding registration and licensure of motor vehicles;
and payment of all required fees. The firefighter
certification department, section or division of the West
Virginia University fire service extension shall notify the
commissioner in writing immediately when a firefighter
loses his or her certification. If a firefighter loses his or her
certification, the commissioner may not issue him or her a
license plate under this subsection.

(C) Each application submitted pursuant to this
subdivision shall be accompanied by payment of a special
initial application fee of $10, which is in addition to any
other registration or license fee required by this chapter. All
special fees shall be collected by the division and deposited
into the State Road Fund.

(12) The division may issue special scenic registration
plates as follows:

(A) Upon appropriate application, the commissioner
shall issue a special registration plate displaying a scenic
design of West Virginia which displays the words “Wild
Wonderful” as a slogan.

(B) The division shall charge a special one-time initial
application fee of $10 in addition to all other fees required
by this chapter. All initial application fees collected by the
division shall be deposited into the State Road Fund.

(13) The division may issue honorably discharged
Marine Corps league members special registration plates as
follows:

(A) Upon appropriate application, the division shall
issue to any honorably discharged Marine Corps league
member a special registration plate for any number of
vehicles titled in the name of the qualified applicant with an
insignia designed by the Commissioner of the Division of
Motor Vehicles.

(B) The division may charge a special one-time initial
application fee of $10 in addition to all other fees required
by this chapter. This special fee is to compensate the 
Division of Motor Vehicles for additional costs and services 
required in the issuing of the special registration and shall 
be collected by the division and deposited in the State Road 
Fund: Provided, That nothing in this section may be 
construed to exempt any veteran from any other provision 
of this chapter.

(C) A surviving spouse may continue to use his or her 
deceased spouse’s honorably discharged Marine Corps 
league license plate until the surviving spouse dies, 
remarries or does not renew the license plate.

(14) The division may issue military organization 
registration plates as follows:

(A) The division may issue a special registration plate 
for the members of any military organization chartered by 
the United States Congress upon receipt of a guarantee from 
the organization of a minimum of one hundred applicants. 
The insignia on the plate shall be designed by the 
commissioner.

(B) Upon appropriate application, the division may 
issue members of the chartered organization in good 
standing, as determined by the governing body of the 
chartered organization, a special registration plate for any 
number of vehicles titled in the name of the qualified 
applicant.

(C) The division shall charge a special one-time initial 
application fee of $10 for each special license plate in 
addition to all other fees required by this chapter. All initial 
application fees collected by the division shall be deposited 
into the State Road Fund: Provided, That nothing in this 
section may be construed to exempt any veteran from any 
other provision of this chapter.

(D) A surviving spouse may continue to use his or her 
deceased spouse’s military organization registration plate
until the surviving spouse dies, remarries or does not renew the special military organization registration plate.

(15) The division may issue special nongame wildlife registration plates and special wildlife registration plates as follows:

(A) Upon appropriate application, the division shall issue a special registration plate displaying a species of West Virginia wildlife which shall display a species of wildlife native to West Virginia as prescribed and designated by the commissioner and the Director of the Division of Natural Resources.

(B) The division shall charge an annual fee of $15 for each special nongame wildlife registration plate and each special wildlife registration plate in addition to all other fees required by this chapter. All annual fees collected for nongame wildlife registration plates and wildlife registration plates shall be deposited in a special revenue account designated the Nongame Wildlife Fund and credited to the Division of Natural Resources.

(C) The division shall charge a special one-time initial application fee of $10 in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited in the State Road Fund.

(16) The division may issue members of the Silver Haired Legislature special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any person who is a duly qualified member of the Silver Haired Legislature a specialized registration plate which bears recognition of the applicant as a member of the Silver Haired Legislature.

(B) A qualified member of the Silver Haired Legislature may obtain one registration plate described in this subdivision for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge an
annual fee of $15, in addition to all other fees required by this chapter, for the plate. All annual fees collected by the division shall be deposited in the State Road Fund.

(17) Upon appropriate application, the commissioner shall issue to a classic motor vehicle or classic motorcycle as defined in section three-a, article ten of this chapter, a special registration plate designed by the commissioner. An annual fee of $15, in addition to all other fees required by this chapter, shall be charged for each classic registration plate.

(18) Honorably discharged veterans may be issued special registration plates for motorcycles subject to Class G registration as follows:

(A) Upon appropriate application, there shall be issued to any honorably discharged veteran of any branch of the armed services of the United States a special registration plate for any number of motorcycles subject to Class G registration titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) A special initial application fee of $10 shall be charged in addition to all other fees required by law. This special fee is to be collected by the division and deposited in the State Road Fund: Provided, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse’s honorably discharged veterans license plate until the surviving spouse dies, remarries or does not renew the license plate.

(19) Racing theme special registration plates:

(A) The division may issue a series of special registration plates displaying National Association for Stock Car Auto Racing themes.
(B) An annual fee of $25 shall be charged for each special racing theme registration plate in addition to all other fees required by this chapter. All annual fees collected for each special racing theme registration plate shall be deposited into the State Road Fund.

(C) A special application fee of $10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.

(20) The division may issue recipients of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Bronze Star, Silver Star or Air Medal special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any recipient of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star or Air Medal, a registration plate for any number of vehicles titled in the name of the qualified applicant bearing letters or numbers. A separate registration plate shall be designed by the Commissioner of Motor Vehicles for each award that denotes that those individuals who are granted this special registration plate are recipients of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star or Bronze Star, or Air Medal as applicable.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: Provided, That nothing in this section exempts the applicant for a special registration plate under this subdivision from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse’s Navy Cross, Distinguished Service
Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star or Air Medal special registration plate until the surviving spouse dies, remarries or does not renew the special registration plate.

(21) The division may issue honorably discharged veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged veteran of any branch of the armed services of the United States with verifiable service during World War II, the Korean War, the Vietnam War, the Persian Gulf War or the War Against Terrorism a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the commissioner denoting service in the applicable conflict.

(B) The division shall charge a special one-time initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: Provided, That nothing contained in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse’s honorably discharged veterans registration plate until the surviving spouse dies, remarries or does not renew the special registration plate.

(22) The division may issue special volunteer firefighter registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of West Virginia and who is a volunteer firefighter may apply for a special license plate for any Class A vehicle titled in the name of the qualified applicant which bears the insignia of the profession in white letters on a red background. The insignia shall be designed by the commissioner and shall
contain a fireman’s helmet insignia on the left side of the license plate.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit signed by the applicant’s fire chief, stating that the applicant is a volunteer firefighter and justified in having a registration plate with the requested insignia. The applicant must comply with all other laws of this state regarding registration and licensure of motor vehicles and must pay all required fees.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special one-time initial application fee of $10, which is in addition to any other registration or license fee required by this chapter. All application fees shall be deposited into the State Road Fund.

(23) The division may issue special registration plates which reflect patriotic themes, including the display of any United States symbol, icon, phrase or expression which evokes patriotic pride or recognition. The division shall also issue registration plates with the words “In God We Trust”.

(A) Upon appropriate application, the division shall issue to an applicant a registration plate of the applicant’s choice, displaying a patriotic theme as provided in this subdivision, for a vehicle titled in the name of the applicant. A series of registration plates displaying patriotic themes shall be designed by the Commissioner of Motor Vehicles for distribution to applicants.

(B) The division shall charge a special one-time initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.
(C) The provisions of subsection (d) of this section are not applicable for the issuance of the license plates designated by this subdivision.

(24) Special license plates bearing the American flag and the logo “9/11/01”.

(A) Upon appropriate application, the division shall issue special registration plates which shall display the American flag and the logo “9/11/01”.

(B) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(C) A special application fee of $10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.

(25) The division may issue a special registration plate celebrating the centennial of the 4-H youth development movement and honoring the Future Farmers of America organization as follows:

(A) Upon appropriate application, the division may issue a special registration plate depicting the symbol of the 4-H organization which represents the head, heart, hands and health as well as the symbol of the Future Farmers of America organization which represents a cross section of an ear of corn for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of $15 for each special 4-H Future Farmers of America registration plate in addition to all other fees required by this chapter.
(26) The division may issue special registration plates to educators in the state’s elementary and secondary schools and in the state’s institutions of higher education as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of $15 for each special educator registration plate in addition to all other fees required by this chapter.

(27) The division may issue special registration plates to members of the Nemesis Shrine as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in Nemesis Shrine.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) Notwithstanding the provisions of subsection (d) of this section, the time period for the Nemesis Shrine to comply with the minimum one hundred prepaid applications is hereby extended to January 15, 2005.
(28) The division may issue volunteers and employees of the American Red Cross special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any person who is a duly qualified volunteer or employee of the American Red Cross a specialized registration plate which bears recognition of the applicant as a volunteer or employee of the American Red Cross for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(29) The division shall issue special registration plates to individuals who have received either the Combat Infantry Badge or the Combat Medic Badge as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof that they have received either the Combat Infantry Badge or the Combat Medic Badge.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(30) The division may issue special registration plates to members of the Knights of Columbus as follows:
(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Knights of Columbus.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) Notwithstanding the provisions of subsection (d) of this section, the time period for the Knights of Columbus to comply with the minimum one hundred prepaid applications is hereby extended to January 15, 2007.

(31) The division may issue special registration plates to former members of the Legislature as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of former service as an elected or appointed member of the West Virginia House of Delegates or the West Virginia Senate.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund. The design of the plate shall indicate total years of service in the Legislature.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.
Democratic state or county executive committee member special registration plates:

(A) The division shall design and issue special registration plates for use by democratic state or county executive committee members. The design of the plates shall include an insignia of a donkey and shall differentiate by wording on the plate between state and county executive committee members.

(B) An annual fee of $25 shall be charged for each democratic state or county executive committee member registration plate in addition to all other fees required by this chapter. All annual fees collected for each special plate issued under this subdivision shall be deposited into the State Road Fund.

(C) A special application fee of $10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.

(D) The division shall not begin production of a plate authorized under the provisions of this subdivision until the division receives at least one hundred completed applications from the state or county executive committee members, including all fees required pursuant to this subdivision.

(E) Notwithstanding the provisions of subsection (d) of this section, the time period for the democratic executive committee to comply with the minimum one hundred prepaid applications is hereby extended to January 15, 2005.

The division may issue honorably discharged female veterans special registration plates as follows:

(A) Upon appropriate application, there shall be issued to any female honorably discharged veteran, of any branch of the armed services of the United States, a special
registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as a woman veteran.

(B) A special initial application fee of $10 shall be charged in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: Provided, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his deceased spouse’s honorably discharged veterans license plate until the surviving spouse dies, remarries or does not renew the license plate.

(34) The division may issue special registration plates bearing the logo, symbol, insignia, letters or words demonstrating association with West Liberty State College to any resident owner of a motor vehicle. Resident owners may apply for the special license plate for any number of Class A vehicles titled in the name of the applicant. The special registration plates shall be designed by the commissioner. Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of $15, which is in addition to any other registration or license fee required by this chapter. The division shall charge an annual fee of $15 for each special registration plate in addition to all other fees required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(35) The division may issue special registration plates to members of the Harley Owners Group as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special
registration plate shall offer sufficient proof of membership in the Harley Owners Group.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(36) The division may issue special registration plates for persons retired from any branch of the armed services of the United States as follows:

(A) Upon appropriate application, there shall be issued to any person who has retired after service in any branch of the armed services of the United States, a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as retired from the armed services of the United States.

(B) A special initial application fee of $10 shall be charged in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: Provided, That nothing in this section may be construed to exempt any registrants from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse’s retired military license plate until the surviving spouse dies, remarries or does not renew the license plate.

(37) The division may issue special registration plates bearing the logo, symbol, insignia, letters or words demonstrating association with or support for Fairmont State College as follows:
(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(38) The division may issue special registration plates honoring the farmers of West Virginia as follows:

(A) Any owner of a motor vehicle who is a resident of West Virginia may apply for a special license plate depicting a farming scene or other apt reference to farming, whether in pictures or words, at the discretion of the commissioner.

(B) The division shall charge a special initial application fee of $10. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(39) The division shall issue special registration plates promoting education as follows:

(A) Upon appropriate application, the division shall issue a special registration plate displaying a children’s education-related theme as prescribed and designated by the commissioner and the State Superintendent of Schools.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.
(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(40) The division may issue members of the 82nd Airborne Division Association special registration plates as follows:

(A) The division may issue a special registration plate for members of the 82nd Airborne Division Association upon receipt of a guarantee from the organization of a minimum of one hundred applicants. The insignia on the plate shall be designed by the commissioner.

(B) Upon appropriate application, the division may issue members of the 82nd Airborne Division Association in good standing, as determined by the governing body of the organization, a special registration plate for any number of vehicles titled in the name of the qualified applicant.

(C) The division shall charge a special one-time initial application fee of $10 for each special license plate in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund: Provided, That nothing in this section may be construed to exempt the applicant from any other provision of this chapter.

(D) A surviving spouse may continue to use his or her deceased spouse’s special 82nd Airborne Division Association registration plate until the surviving spouse dies, remarries or does not renew the special registration plate.

(41) The division may issue special registration plates to survivors of wounds received in the line of duty as a member with a West Virginia law enforcement agency.

(A) Upon appropriate application, the division shall issue to any member of a municipal police department, sheriff’s department, the State Police or the law enforcement division of the Division of Natural Resources
who has been wounded in the line of duty and awarded a
Purple Heart in recognition thereof by the West Virginia
Chiefs of Police Association, the West Virginia Sheriffs’
Association, the West Virginia Troopers Association or the
Division of Natural Resources a special registration plate
for one vehicle titled in the name of the qualified applicant
with an insignia appropriately designed by the
commissioner.

(B) Registration plates issued pursuant to this
subdivision are exempt from the registration fees otherwise
required by the provisions of this chapter.

(C) A surviving spouse may continue to use his or her
deceased spouse’s special registration plate until the
surviving spouse dies, remarries or does not renew the plate.

(D) Survivors of wounds received in the line of duty as
a member with a West Virginia law-enforcement agency
may obtain a license plate as described in this section for
use on a passenger vehicle titled in the name of the qualified
applicant. The division shall charge a one-time fee of $10 to
be deposited into the State Road Fund, in addition to all
other fees required by this chapter, for the second plate.

(42) The division may issue a special registration plate
for persons who are Native Americans and residents of this
state.

(A) Upon appropriate application, the division shall
issue to an applicant who is a Native American resident of
West Virginia a registration plate for a vehicle titled in the
name of the applicant with an insignia designed by the
Commissioner of the Division of Motor Vehicles to
designate the recipient as a Native American.

(B) The division shall charge a special one-time initial
application fee of $10 in addition to all other fees required
by law. This special fee shall be collected by the division
and deposited in the State Road Fund.
(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(43) The division may issue special registration plates commemorating the centennial anniversary of the creation of Davis and Elkins College as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to commemorate the centennial anniversary of Davis and Elkins College for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of $10. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(44) The division may issue special registration plates recognizing and honoring breast cancer survivors.

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to recognize and honor breast cancer survivors, such plate to incorporate somewhere in the design the “pink ribbon emblem”, for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of $10. This special fee shall be deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(45) The division may issue special registration plates to members of the Knights of Pythias or Pythian Sisters as follows:
(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Knights of Pythias or Pythian Sisters.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(46) The commissioner may issue special registration plates for whitewater rafting enthusiasts as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of $15 for each special registration plate in addition to all other fees required by this chapter.

(47) The division may issue special registration plates to members of Lions International as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with Lions International for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate
shall offer sufficient proof of membership in Lions International.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(48) The division may issue special registration plates supporting organ donation as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner which recognizes, supports and honors organ and tissue donors and includes the words “Donate Life”.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(49) The division may issue special registration plates to members of the West Virginia Bar Association as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the West Virginia Bar Association for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the West Virginia Bar Association.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This
special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(50) The division may issue special registration plates bearing an appropriate logo, symbol or insignia combined with the words “SHARE THE ROAD” designed to promote bicycling in the state as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(51) The division may issue special registration plates honoring coal miners and the coal industry as follows:

(A) Upon appropriate application, the division shall issue a special registration plate depicting and displaying coal miners in mining activities as prescribed and designated by the commissioner and the board of the National Coal Heritage Area Authority. The division may also issue registration plates with the words “Friends of Coal”.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.
(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) The provisions of subsection (d) of this section are not applicable for the issuance of the license plates designated by this subdivision.

(52) The division may issue special registration plates to present and former Boy Scouts as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of present or past membership in the Boy Scouts as either a member or a leader.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(53) The division may issue special registration plates to present and former Boy Scouts who have achieved Eagle Scout status as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of achievement of Eagle Scout status.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be deposited in the State Road Fund.
(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(54) The division may issue special registration plates recognizing and memorializing victims of domestic violence.

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to recognize and memorialize victims of domestic violence, such plate to incorporate somewhere in the design the “purple ribbon emblem”, for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of $10. This special fee shall be deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(55) The division may issue special registration plates bearing the logo, symbol, insignia, letters or words demonstrating association with or support for the University of Charleston as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.
(56) The division may issue special registration plates to members of the Sons of the American Revolution as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the Sons of the American Revolution for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Sons of the American Revolution.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of $15 shall be charged for each plate in addition to all other fees required by this chapter.

(57) The commissioner may issue special registration plates for horse enthusiasts as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of $15 for each special registration plate in addition to all other fees required by this chapter.

(58) The commissioner may issue special registration plates to the next of kin of a member of any branch of the armed services of the United States killed in combat as follows:
(A) Upon appropriate application, the division shall issue a special registration plate for any number of vehicles titled in the name of a qualified applicant depicting the Gold Star awarded by the United States Department of Defense as prescribed and designated by the commissioner.

(B) The next of kin shall provide sufficient proof of receiving a Gold Star lapel button from the United States Department of Defense in accordance with Public Law 534, 89th Congress, and criteria established by the United States Department of Defense, including criteria to determine next of kin.

(C) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(D) The provisions of subsection (d) of this section are not applicable for the issuance of the special license plates designated by this subdivision.

(59) The commissioner may issue special registration plates for retired or former Justices of the Supreme Court of Appeals of West Virginia as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of $10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of $15 for each special registration plate in addition to all other fees required by this chapter.
(D) The provisions of subsection (d) of this section are not applicable for the issuance of the special license plates designated by this subdivision.

(60) Upon approval by the commissioner of an appropriate application, and upon all requirements of this subdivision being satisfied, the division may issue special registration plates for class A and class G motor vehicles to members of an organization for which a special registration plate has not been issued pursuant to any other subdivision in this subsection prior to January 1, 2010, in accordance with the provisions of this subdivision.

(A) An organization desiring to create a special registration plate must comply with the following requirements to be eligible to apply for the creation and issuance of a special registration plate:

(i) The organization must be a nonprofit organization organized and existing under Section 501(c)(3) of Title 26 of the Internal Revenue Code and based, headquartered or have a chapter in West Virginia;

(ii) The organization may be organized for, but may not be restricted to, social, civic, higher education or entertainment purposes;

(iii) The organization may not be a political party and may not have been created or exist primarily to promote a specific political or social belief, as determined by the commissioner in his or her sole discretion;

(iv) The organization may not have as its primary purpose the promotion of any specific faith, religion, religious belief or antireligion;

(v) The name of the organization may not be the name of a special product or brand name, and may not be construed, as determined by the commissioner, as promoting a product or brand name; and
(vi) The organization’s lettering, logo, image or message to be placed on the registration plate, if created, may not be obscene, offensive or objectionable as determined by the commissioner in his or her sole discretion.

(B) Beginning July 1, 2010, an organization requesting the creation and issuance of a special registration plate may make application with the division. The application shall include sufficient information, as determined by the commissioner, to determine whether the special registration plate requested and the organization making the application meet all of the requirements set forth in this subdivision (60). The application shall also include a proposed design, including lettering, logo, image or message to be placed on the registration plate. The commissioner shall notify the organization of the commissioner’s approval or disapproval of the application.

(C)(i) The commissioner may not begin the design or production of any license plates authorized and approved pursuant to this subdivision (60), subsection (c) of this section until the organization which applied for the special registration plate has collected and submitted collectively to the division applications completed by at least two hundred fifty persons and collectively deposited with the division all fees necessary to cover the first year’s basic registration, one-time design and manufacturing costs and to cover the first year additional annual fee for all of the applications submitted.

(ii) If the organization fails to submit the required number of applications and fees within six months of the effective date of the approval of the application for the plate by the commissioner, the plate will not be produced until a new application is submitted and is approved by the commissioner: Provided, That an organization that is unsuccessful in obtaining the minimum number of applications may not make a new application for a special
plate until at least two years have passed since the approval of the previous application of the organization.

(D) The division shall charge a special initial application fee of $25 for each special license plate in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(E) The division shall charge an annual fee of $15 for each special registration plate in addition to all other fees required by this chapter.

(F) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the organization for any number of vehicles titled in the name of a qualified registration plate applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the organization.

(G) The commissioner shall discontinue the issuance or renewal of the registration of any special plate issued pursuant to this subdivision (60) if:

(i) The number of valid registrations for the specialty plate falls below two hundred fifty plates for at least twelve consecutive months; or

(ii) The organization no longer exists or no longer meets the requirements of this subdivision.

(d) The minimum number of applications required prior to design and production of a special license plate shall be as follows:

(1) The commissioner may not begin the design or production of any license plates for which eligibility is based on membership or affiliation with a particular private organization until at least one hundred persons complete an application and deposit with the organization a check to
cover the first year’s basic registration, one-time design and manufacturing costs and to cover the first year additional annual fee. If the organization fails to submit the required number of applications with attached checks within six months of the effective date of the original authorizing legislation, the plate will not be produced and will require legislative reauthorization: Provided, That an organization or group that is unsuccessful in obtaining the minimum number of applications may not request reconsideration of a special plate until at least two years have passed since the effective date of the original authorization: Provided, however, That the provisions of this subdivision (1) are not applicable to the issuance of plates authorized pursuant to subdivision (60), subsection (c) of this section.

(2) The commissioner may not begin the design or production of any license plates authorized by this section for which membership or affiliation with a particular organization is not required until at least two hundred fifty registrants complete an application and deposit a fee with the division to cover the first year’s basic registration fee, one-time design and manufacturing fee and additional annual fee if applicable. If the commissioner fails to receive the required number of applications within six months of the effective date of the original authorizing legislation, the plate will not be produced and will require legislative reauthorization: Provided, That if the minimum number of applications is not satisfied within the six months of the effective date of the original authorizing legislation, a person may not request reconsideration of a special plate until at least two years have passed since the effective date of the original authorization.

(e) (1) Nothing in this section requires a charge for a free prisoner of war license plate or a free recipient of the Congressional Medal of Honor license plate for a vehicle titled in the name of the qualified applicant as authorized by other provisions of this code.
(2) A surviving spouse may continue to use his or her deceased spouse’s prisoner of war license plate or Congressional Medal of Honor license plate until the surviving spouse dies, remarries or does not renew the license plate.

(3) Qualified former prisoners of war and recipients of the Congressional Medal of Honor may obtain a second special registration plate for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of $10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second special plate.

(f) The division may issue special ten-year registration plates as follows:

(1) The commissioner may issue or renew for a period of no more than ten years any registration plate exempted from registration fees pursuant to any provision of this code or any restricted use antique motor vehicle plate authorized by section three-a, article ten of this chapter: Provided, That the provisions of this subsection do not apply to any person who has had a special registration suspended for failure to maintain motor vehicle liability insurance as required by section three, article two-a, chapter seventeen-d of this code or failure to pay personal property taxes as required by section three-a of this article.

(2) An initial nonrefundable fee shall be charged for each special registration plate issued pursuant to this subsection, which is the total amount of fees required by section fifteen, article ten of this chapter, section three, article three of this chapter or section three-a, article ten of this chapter for the period requested.

(g) The provisions of this section may not be construed to exempt any registrant from maintaining motor vehicle
liability insurance as required by section three, article two-
a, chapter seventeen-d of this code or from paying personal
property taxes on any motor vehicle as required by section
three-a of this article.

(h) The commissioner may, in his or her discretion, issue a registration plate of reflectorized material suitable for permanent use on motor vehicles, trailers and semitrailers, together with appropriate devices to be attached to the registration to indicate the year for which the vehicles have been properly registered or the date of expiration of the registration. The design and expiration of the plates shall be determined by the commissioner. The commissioner shall, whenever possible and cost effective, implement the latest technology in the design, production and issuance of registration plates, indices of registration renewal and vehicle ownership documents, including, but not limited to, offering Internet renewal of vehicle registration and the use of bar codes for instant identification of vehicles by scanning equipment to promote the efficient and effective coordination and communication of data for improving highway safety, aiding law enforcement and enhancing revenue collection.

(i) Any license plate issued or renewed pursuant to this chapter which is paid for by a check that is returned for nonsufficient funds is void without further notice to the applicant. The applicant may not reinstate the registration until the returned check is paid by the applicant in cash, money order or certified check and all applicable fees assessed as a result thereof have been paid.
AN ACT to amend and reenact §17A-10-3 of the Code of West Virginia, 1931, as amended, relating to requiring that the registration fee and any other fees required by this chapter for motorcycles and parking enforcement vehicles shall be for at least one year.

Be it enacted by the Legislature of West Virginia:

That §17A-10-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.

§17A-10-3. Registration fees for vehicles equipped with pneumatic tires.

1 The following registration fees for the classes indicated shall be paid to the division for the registration of vehicles subject to registration under this chapter when equipped with pneumatic tires:

5 (a) Registration fees for the following classes shall be paid to the division annually:

7 (1) Class A. — The registration fee for motor vehicles of this class is $28.50: Provided, That the registration fees and any other fees required by this chapter for Class A vehicles under the optional biennial staggered registration
No license fee may be charged for vehicles owned by churches, or by trustees for churches, which are regularly used for transporting parishioners to and from church services. Notwithstanding the exemption, the certificate of registration and license plates shall be obtained the same as other cards and plates under this article.

(2) **Class B.** — The registration fee for all motor vehicles of this class is as follows:

(A) For declared gross weights of ten thousand one pounds to sixteen thousand pounds — $28 plus $5 for each one thousand pounds or fraction of one thousand pounds that the gross weight of the vehicle or combination of vehicles exceeds ten thousand pounds.

(B) For declared gross weights greater than sixteen thousand pounds, but less than fifty-five thousand pounds — $78.50 plus $10 for each one thousand or fraction of one thousand pounds that the gross weight of the vehicle or combination of vehicles exceeds sixteen thousand pounds.

(C) For declared gross weights of fifty-five thousand pounds or more — $737.50 plus $15.75 for each one thousand pounds or fraction of one thousand pounds that the gross weight of the vehicle or combination of vehicles exceeds fifty-five thousand pounds.

(3) **Class G.** — The registration fee for each motorcycle or parking enforcement vehicle is $8: **Provided,** That the registration fee and any other fees required by this chapter for Class G vehicles shall be for at least one year from the date of registration and under an optional biennial registration system the annual fee shall be multiplied by two and paid biennially to the division.

(4) **Class H.** — The registration fee for all vehicles for this class operating entirely within the state is $5; and for
vehicles engaged in interstate transportation of persons, the
registration fee is the amount of the fees provided by this
section for Class B, reduced by the amount that the mileage
of the vehicles operated in states other than West Virginia
bears to the total mileage operated by the vehicles in all
states under a formula to be established by the Division of
Motor Vehicles.

(5) Class J. — The registration fee for all motor vehicles
of this class is $85. Ambulances and hearses used
exclusively as ambulances and hearses are exempt from the
special fees set forth in this section.

(6) Class M. — The registration fee for all vehicles of
this class is $17.50.

(7) Class X. — The registration fee for all motor
vehicles of this class is as follows:

(A) For farm trucks of declared gross weights of eight
thousand one pounds to sixteen thousand pounds — $30.

(B) For farm trucks of declared gross weights of sixteen
thousand one pounds to twenty-two thousand pounds — $60.

(C) For farm trucks of declared gross weights of twenty-
two thousand one pounds to twenty-eight thousand pounds — $90.

(D) For farm trucks of declared gross weights of twenty-
eight thousand one pounds to thirty-four thousand pounds — $115.

(E) For farm trucks of declared gross weights of thirty-
four thousand one pounds to forty-four thousand pounds — $160.

(F) For farm trucks of declared gross weights of forty-
four thousand one pounds to fifty-four thousand pounds — $205.
(G) For farm trucks of declared gross weights of fifty-four thousand one pounds to eighty thousand pounds — $250: Provided, That the provisions of subsection (a), section eight, article one, chapter seventeen-e of this code do not apply if the vehicle exceeds sixty-four thousand pounds and is a truck tractor or road tractor.

(b) Registration fees for the following classes shall be paid to the division for a maximum period of three years, or portion of a year based on the number of years remaining in the three-year period designated by the commissioner:

(1) *Class R.* — The annual registration fee for all vehicles of this class is $12.

(2) *Class T.* — The annual registration fee for all vehicles of this class is $8.

(c) The fees paid to the division for a multiyear registration provided by this chapter shall be the same as the annual registration fee established by this section and any other fee required by this chapter multiplied by the number of years for which the registration is issued.

(d) The registration fee for all Class C vehicles is $50. All Class C trailers shall be registered for the duration of the owner’s interest in the trailer and do not expire until either sold or otherwise permanently removed from the service of the owner: Provided, That a registrant may transfer a Class C registration plate from a trailer owned less than thirty days to another Class C trailer titled in the name of the registrant upon payment of the transfer fee prescribed in section ten of this article.
AN ACT to amend and reenact §17B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-2-7b of said code; to amend said code by adding thereto a new section, designated §17C-1-69; and to amend and reenact §17C-15-44 of said code, all relating to autocycles; creating an autocycle exemption from motorcycle examination, licensing and endorsement requirements; allowing a person with a valid driver’s license to operate an autocycle; creating an autocycle exemption from helmet and certain other motorcycle or motor-driven cycle safety requirements; defining terms; deleting obsolete language regarding the motorcycle safety and education committee; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

That §17B-1-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §17B-2-7b of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §17C-1-69; and that §17C-15-44 of said code be amended and reenacted, all to read as follows:

CHAPTER 17B. MOTOR VEHICLE DRIVER’S LICENSES.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17B-1-1. Definitions.
The following words and phrases when used in this chapter, for the purpose of this chapter, have the meanings respectively ascribed to them in this article:

Autocycle. — Every fully or partially enclosed motorcycle that is equipped with safety belts, rollover protection, a rearview mirror, automotive seating, a steering wheel and equipment otherwise required on a motorcycle and which has no more than three wheels in contact with the roadway at any one time;

Cancellation. — Means that a driver’s license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to that license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after such cancellation;

Chauffeur. — Every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation;

Commissioner. — The Commissioner of Motor Vehicles of this state;

Division. — The Division of Motor Vehicles of this state acting directly or through its duly authorized officers or agents;

Driver. — Means any person who drives, operates or is in physical control of a motor vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required to hold a driver’s license;

Driver’s license. — Means any permit or license issued by this state to a person which authorizes the person to drive a motor vehicle of a specific class or classes subject to any restriction or endorsement contained thereon;
Farm tractor. — Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;

Motorcycle. — Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor as defined herein, a moped as defined in section five-a, article one, chapter seventeen-c of this code, a snowmobile as defined in subsection (mm), section one, article one, chapter seventeen-a of this code and an all-terrain vehicle as defined in subsection (ii), section one of this article;

Motor vehicle. — Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails;

9-1-1 system. — Means an emergency telephone system or enhanced emergency telephone system as defined in section two, article six, chapter twenty-four of this code;

Nonresident. — Every person who is not a resident of this state;

Operator. — Every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle;

Owner. — A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor is the owner for the purpose of this chapter;
Person. — Every natural person, firm, copartnership, association or corporation;

Revocation. — Means that the driver’s license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the division after the expiration of at least one year after the date of revocation, except as otherwise provided in section two, article five-a, chapter seventeen-c of this code;

School bus. — Every motor vehicle owned by a public governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school;

Street or highway. — The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

Suspension. — Suspension means that the driver’s license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn but only during the period of the suspension;

Vehicle. — Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks;

Wireless communication device. — Means a handheld device used to access a wireless telephone service or a text messaging device.

ARTICLE 2. ISSUANCE OF LICENSE; EXPIRATION AND RENEWAL.
§17B-2-7b. Separate examination and endorsement for a license valid for operation of motorcycle.

(a) The State Police shall administer a separate motorcycle examination for applicants for a license valid for operation of a motorcycle. On and after July 1, 2000, the Division of Motor Vehicles shall administer the examination provided for in this section. Any applicant for a license valid for operation of a motorcycle shall be required to successfully complete the motorcycle examination, which is in addition to the examination administered pursuant to section seven of this article and, if under the age of eighteen, shall be required to complete the requirements for a level two intermediate driver’s license set forth in paragraphs (B), (C) and (D), subdivision (1), subsection (j), section three-a of this article: Provided, That the commissioner may exempt an applicant for a motorcycle driver’s license or endorsement from all or part of the motorcycle license examination as provided in section six, article one-d of this chapter. The motorcycle examination shall test the applicant’s knowledge of the operation of a motorcycle and of any traffic laws specifically relating to the operation of a motorcycle and shall include an actual demonstration of the ability to exercise ordinary and reasonable control in the operation of a motorcycle. An applicant for a license valid for the operation of only a motorcycle shall be tested as provided in this section and in section seven of this article, but need not demonstrate actual driving ability in any vehicle other than a motorcycle. The examination provided in this section may not be made a condition upon the renewal of the license of any person under this section. For an applicant who successfully completes the motorcycle examination, upon payment of the required fee, the division shall issue a motorcycle endorsement on the driver’s license of the applicant, or shall issue a special motorcycle-only license if the applicant does not possess a driver’s license: Provided, however, That any holder of a motorcycle-only license under the age of eighteen is subject to the provisions of paragraphs (A), (B),
Every person, including those holding a valid driver’s license, is required to take the examination specified in this section to obtain a motorcycle license or endorsement, unless exempted under subsection (b) of this section.

(b) Notwithstanding any provision of this code to the contrary, a person with a valid driver’s license who is operating an autocycle is exempt from the motorcycle examination, licensing and endorsement requirements set forth in this article.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17C-1-69. Autocycle.

“Autocycle” means a fully or partially enclosed motorcycle that is equipped with safety belts, rollover protection, a rearview mirror, automotive seating, a steering wheel and equipment otherwise required on a motorcycle and which has no more than three wheels in contact with the roadway at any one time.

ARTICLE 15. EQUIPMENT.

§17C-15-44. Safety equipment and requirements for motorcyclists, motorcycles, motor-driven cycles and mopeds; motorcycle safety standards and education committee.

(a) No person may operate or be a passenger on any motorcycle or motor-driven cycle unless the person is wearing securely fastened on his or her head by either a neck or chin strap a protective helmet designed to deflect blows, resist penetration and spread impact forces. Any helmet worn by an operator or passenger shall meet the current performance specifications established by the American

(b) No person may operate or be a passenger on any motorcycle or motor-driven cycle unless the person is wearing safety, shatter-resistant eyeglasses, excluding contact lenses, or eye goggles or face shield that complies with the performance specifications established by the American National Standards Institute for Head, Eye and Respiratory Protection, Z 2.1. In addition, if any motorcycle, motor-driven cycle or moped is equipped with a windshield or windscreen, the windshield or windscreen shall be constructed of safety, shatter-resistant material that complies with the performance specifications established by Department of Transportation Federal Motor Vehicle Safety Standard No. 205 and American National Standards Institute, Safety Glazing Materials for Glazing Motor Vehicles Operated on Land Highways, Standard Z 26.1.

(c) No person may operate a motorcycle, motor-driven cycle or moped on which the handlebars or grips are more than fifteen inches higher than the uppermost part of the operator’s seat when the seat is not depressed in any manner.

(d) A person operating a motorcycle, motor-driven cycle or moped shall ride in a seated position facing forward and only upon a permanent operator’s seat attached to the vehicle. No operator may carry any other person nor may any other person ride on the vehicle unless the vehicle is designed to carry more than one person, in which event a passenger may ride behind the operator upon the permanent operator’s seat if it is designed for two persons, or upon another seat firmly attached to the vehicle to the rear of the operator’s seat and equipped with footrests designed and located for use by the passenger or in a sidecar firmly attached to the vehicle. No person may ride side saddle on a seat. An operator may carry as many passengers as there are
seats and footrests to accommodate those passengers. Additional passengers may be carried in a factory-produced sidecar provided that there is one passenger per seat. Passengers riding in a sidecar shall be restrained by safety belts.

(e) Every motorcycle, motor-driven cycle and moped shall be equipped with a rearview mirror affixed to the handlebars or fairings and adjusted so that the operator has a clear view of the road and condition of traffic behind him or her for a distance of at least two hundred feet.

(f) Notwithstanding any provision of this code to the contrary, a person with a valid driver’s license who is operating a fully enclosed autocycle, as defined in section sixty-nine, article one of this chapter, is exempt from the provisions of this section.

CHAPTER 156

(Com. Sub. for S. B. 631 - By Senators Palumbo, Jeffries and Takubo)

[Passed April 7, 2017; in effect ninety days from passage.] [Approved by the Governor on April 24, 2017.]

AN ACT to amend and reenact §8-12-13 and §8-12-16 of the Code of West Virginia, 1931, as amended, all relating generally to municipal ordinances and procedures; creating a procedure for misdemeanor prosecutions of violations of municipal ordinances; defining terms; providing for the designation of enforcement agencies; providing a procedure for code enforcement agency officials to enter premises for investigation or inspection of a structure, dwelling or building; granting plenary power to the governing body of every municipality to adopt an ordinance providing for the
vacating, closing, removal or demolition of specific dwellings, structures or buildings by a municipality in the absence of owner agreement or court order with specific requirements; providing for notice to the owner of the right to apply to the circuit court for a temporary injunction or other similar relief; requiring a hearing to be held within twenty days if the owner makes such application to the circuit court; requiring an owner to pay a bond into court if the owner seeks a continuance of the hearing seeking a temporary injunction or other similar relief; allowing for the disbursement of moneys paid into court by an owner if a court finds that the property is unsafe, unsanitary, dangerous or detrimental to the public safety or welfare; permitting a governing body of a municipality to file a lien against the real property for an amount that reflects all costs incurred by a municipality for repairing, altering or improving, or of vacating and closing, removing or demolishing any dwelling or building; permitting a municipality to institute a civil action in circuit court against a landowner or other responsible party to obtain an order to take corrective action up to and including demolition of any structure, dwelling or building that is unsafe, unsanitary, dangerous or detrimental to the public safety or welfare and permitting a municipality to recover all reasonable costs and expenses incurred by the municipality with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action; providing for service of notices of violations; and providing for a procedure to prosecute ordinances adopted under the section pertaining to regulating the repair, alteration, improvement, closing, demolition, etc., of structures, dwelling or buildings that are unsafe, unsanitary, dangerous or detrimental to the public safety or welfare.

Be it enacted by the Legislature of West Virginia:

That §8-12-13 and §8-12-16 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:
ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

§8-12-13. Building regulation; general and special codes; state building code.

(a) The governing body of every municipality shall have plenary power and authority by ordinance or a code of ordinances to:

1. Regulate the erection, construction, repair or alteration of structures of every kind within the corporate limits of the municipality, prohibit, within specified territorial limits, the erection, construction, repair or alteration of structures of wood or other combustible material, and regulate excavations upon private property;

2. Regulate electric wiring by prescribing minimum specifications to be followed in the installation, alteration or repair; and

3. Regulate plumbing by prescribing the minimum specifications to be followed in the installation, alteration or repair of plumbing, including equipment, water and sewer pipe, traps, drains, cesspools and septic tanks.

(b) Notwithstanding the provisions of subsection (a) of this section, all existing municipal building codes are void one year after the promulgation of a state building code by the State Fire Commission as provided under section five-b, article three, chapter twenty-nine of this code.

Upon the voidance of the municipality’s existing building code, if the municipality votes to adopt a building code, it must be the state building code promulgated under section five-b, article three, chapter twenty-nine of this code.
(c) The governing body of every municipality shall have plenary power and authority by ordinance or a code of ordinances to adopt such state building code promulgated by the State Fire Commission.

(d) Unless otherwise authorized by state law, any misdemeanor prosecution of a violation of an ordinance adopted under this section before a municipal judge or other municipal official lawfully authorized to hear and determine violations of municipal code shall be initiated by a complaint presented to and sworn or affirmed before a municipal judge or other municipal official with lawful authority to hear and determine violations of municipal code in the municipality where the offense is alleged to have occurred. Unless otherwise provided by statute, the presentation and oath or affirmation shall be made by a code enforcement department official or municipal attorney showing reason to have reliable information and belief. If the municipal judge or other municipal official with lawful authority to hear and determine violations of municipal code finds probable cause, the complaint becomes the charging instrument initiating a criminal proceeding.

A complaint lawfully authorized by this subsection together with a summons setting forth the date, time and place of appearance before a municipal judge or other municipal official with lawful authority to hear and determine violations of municipal code, shall be served in accordance with the law of the State of West Virginia concerning the service of process in civil actions, except that personal service of a summons and complaint may be made by a code enforcement department official. If service is made by certified mail under Rule 4(d)(1)(D) of the West Virginia Rules of Civil Procedure and delivery of the summons and complaint is refused, the code enforcement department official, promptly upon the receipt of the notice of the refusal, shall mail to the person or entity being noticed, by first class mail, postage prepaid, a copy of the summons and complaint. If the first class mailing is not
returned as undeliverable by the U. S. Postal Service, service of the summons and complaint is presumed to have been effectuated. Upon service of the summons and complaint consistent with this subsection, the violation may be prosecuted consistent with state and local law.

§8-12-16. Ordinances regulating the repair, alteration, improvement, closing, demolition, etc., of structures, dwellings or buildings that are unsafe, unsanitary, dangerous or detrimental to the public safety or welfare; procedures.

(a) For the purposes of this section:

(1) “Code enforcement agency” means either a code enforcement department as defined by 87 CSR 7-2, as may be amended, or an enforcement agency as permitted by subsection (c) of this section.

(2) “Code enforcement agency official” means any lawful agent of a code enforcement agency.

(3) “Owner” or “landowner” means a person who individually or jointly with others:

(A) Has legal title to the property, with or without actual possession of the property;

(B) Has charge, care or control of the property as owner or agent of the owner;

(C) Is an executor, administrator, trustee or guardian of the estate of the owner;

(D) Is the agent of the owner for the purpose of managing, controlling or collecting rents; or

(E) May control or direct the management or disposition of the property.

(4) “Unsafe, unsanitary, dangerous or detrimental to the public safety or welfare” means:
(A) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings;

(B) The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress;

(C) Any portion of a dwelling, building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to an extent that it is likely to partially or completely collapse, or to become detached or dislodged;

(D) Any portion of a structure or building, or any member, appurtenance or ornamentation on the exterior that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value;

(E) The dwelling, building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way;

(F) The dwelling, building or structure, or any portion, is clearly unsafe for its use;

(G) The dwelling, building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children, becomes a harbor for vagrants, criminals, criminal activity or enables persons to resort to the dwelling, building or structure for committing a nuisance or an unlawful act;
(H) Any dwelling, building or structure constructed, exists or maintained in violation of any specific requirement or prohibition applicable to any dwelling, building or structure provided by the approved building or fire code of the jurisdiction or of any law or ordinance that presents either a substantial risk of fire, building collapse or any other threat to life and safety;

(I) A dwelling, building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, contamination by any hazardous substance or material including, but not limited to, substance resulting from the illegal manufacture of drugs, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code enforcement agency to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease;

(J) Any dwelling, building or structure, because of a lack of sufficient or proper fire resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health; or

(K) Any portion of a building that remains on a site after the demolition or destruction of the building or structure, or whenever any building or structure is abandoned.

(b) Plenary power and authority are hereby conferred upon every municipality to adopt ordinances regulating the repair, alteration or improvement, or the vacating and closing or removal or demolition, or any combination, of any structure, dwelling or building, whether used for human habitation or not, that is unsafe, unsanitary, dangerous or detrimental to the public safety or welfare.
(c) The governing body in formally adopting any ordinance under this section shall designate the enforcement agency, which shall consist of the code enforcement agency as provided by the state building code and authorized by section five-b, article three, chapter twenty-nine of this code and section thirteen, article twelve, chapter eight of this code; or municipal officials as may otherwise be authorized by this code; or municipal officials or agents as authorized by rules promulgated by the State Fire Commission and approved by the Legislature; or municipal officials or agents as may otherwise be authorized by the State Fire Commission. Notwithstanding any provision of this code to the contrary, for the purposes of this section any municipality that has not adopted the state building code may designate an enforcement agency consisting of the mayor, the municipal engineer or building inspector and one member at large, to be selected by and to serve at the will and pleasure of the mayor, and the ranking health officer and fire chief who shall serve as ex officio members of the enforcement agency.

(d) Any ordinance adopted under the provisions of this section must provide fair and equitable rules of procedure and any other procedures required by law or necessary and appropriate to guide the code enforcement agency, or its officials, in the investigation of any structure, dwelling or building conditions, and in any corrective action taken by the code enforcement agency.

(e) When a code enforcement agency official enters the premises of the property for investigating or inspecting any structure, dwelling or building, the investigation shall be performed to minimize the inconvenience to the owner or persons in possession and shall be consistent with the following:

(1) Except in exigent circumstances and as permitted by law, the enforcement agency shall provide reasonable advance notice to the owner and request permission from the owner to enter the property.
(2) If the owner cannot be located after reasonable inquiry by the code enforcement agency as required by this section, or if the owner refuses entry, the code enforcement agency may obtain an administrative search warrant from either the municipal court or the magistrate court located in the jurisdiction of the municipality or county where the structure, dwelling or building is located. Before obtaining an administrative search warrant, a code enforcement agency official is required to make a sworn statement and prima facie case showing that the code enforcement agency was unable to gain access to the structure, dwelling or building after reasonable and good faith efforts, and that there is a legitimate and substantial safety concern involving the structure, dwelling or building that supports the requested entry.

(3) If granted by the court, and if the owner can be located, the code enforcement agency shall provide the owner a copy of the administrative search warrant five days before entering the property. If applicable, the code enforcement agency shall also provide the same notice to any tenant or other person in possession of the structure, dwelling or building.

(4) Entry is for the sole purpose of inspection of the structure, dwelling or building for unsafe or unsanitary conditions and not for the purpose of criminal prosecution or gathering evidence for use in any criminal charge or proceeding unrelated to the unsafe or unsanitary condition of the structure, dwelling or building.

(f) The governing body of every municipality has plenary power and authority to adopt an ordinance providing for the vacating, closing, removal or demolition of any dwelling, structure or building by the municipality in the absence of owner agreement or court order: Provided, that the ordinance requires the code enforcement agency to provide lawful notice to and undertake reasonable efforts to seek agreement from the owner before taking any action
permitted by this section and shall comply with the requirements set forth in this subsection:

(1) Any ordinance adopted under this subsection applies only to dwellings, structures or buildings which meet the definition of unsafe, unsanitary, dangerous or detrimental to the public safety or welfare as set forth in:

(A) Paragraph (C), (E) or (H), subdivision (4), subsection (a) of this section; or

(B) Paragraph (F), (G), (I) or (K), subdivision (4), subsection (a) of this section: Provided, That the dwelling, building or structure is vacant, abandoned or has been lawfully declared unfit for human habitation; and the reasonable estimated cost of repair, rehabilitation or corrective action exceeds the fair market value of the dwelling, building or structure.

(2) Any ordinance adopted under this subsection must provide for the following:

(A) The code enforcement agency shall produce a written notice containing the date of the last inspection, the name of the inspector, a reasonable description of the unsafe, unsanitary, dangerous, or detrimental condition(s), the corrective measures required, the allotted time to correct the substandard condition(s) and the allotted time the owner has to apply to the circuit court for a temporary injunction or other similar relief restraining action by the enforcement agency.

(B) The notice shall be served upon the owner or landowner by conspicuously posting and attaching a copy of the notice to the subject property, and by serving the notice on the owner or landowner in the same manner as service of a complaint as set forth in subsection (j) of this section.

(C) If the code enforcement agency cannot effect personal service on the owner, a code enforcement agency
official shall subscribe a written affidavit, to be maintained for a minimum of two years, that demonstrates the structure, dwelling or building falls within one of the categories set forth in paragraph (A) or (B), subdivision (1), subsection (f) of this section sets forth the basis in reasonable detail including documentation of same, and memorializes the code enforcement agency official’s efforts to contact or get permission for entry and corrective action from the owner; and the code enforcement agency shall publish notice of its intent to enter the property for the purpose of demolition or correction, along with the address of the property, the name of the owner(s) and the date of the proposed action, as a Class II legal advertisement consistent with the requirements of section two, article three, chapter fifty-nine of this code, the first of which shall run at least thirty days before the date of the proposed action by the enforcement agency, and the last being no later than twenty days before the date of the proposed action by the enforcement agency.

(D) If there is no response to the notice by the owner or landowner in the time specified in the notice, then the municipality shall have the authority to proceed in correction or demolition of the subject dwelling, building or structure.

(3) It shall be an absolute defense to any civil action by an owner, landowner or tenant for damages resulting from the closure, demolition or other corrective action taken by a municipality under this section: Provided, That the municipality acted in good faith, can demonstrate that the structure, dwelling or building falls within one of the categories set forth in paragraph (A) or (B), subdivision (1), subsection (f) of this section, the municipality followed the procedures set forth in this subsection and the municipality had adopted the state building code at the time of the closure, demolition or other corrective action occurred.

(4) Any ordinance adopted under this subsection must also provide for notice to the owner of the right of the owner to apply to the circuit court for a temporary injunction or
other similar relief restraining correction or demolition by
the enforcement agency. If the application is made by the
owner, a hearing shall be had within twenty days of the
application, or as soon as reasonably possible.

(A) Continuances of the hearing provided for in this
subdivision may be made for cause only. If a continuance
is granted upon request by the owner, the owner is required
to pay into court, in the form of a bond, any reasonable and
necessary costs related to the property likely to be incurred
by the municipality during the continuance.

(B) At the conclusion of a hearing held under this
subdivision, if the court finds that the property is unsafe,
unsanitary, dangerous, or detrimental to the public safety or
welfare, the court shall make and enter an order granting the
relief as requested by the municipality. The court may
disburse any moneys paid into court by the owner in
accordance with this section.

(g) The governing body of every municipality has
plenary power and authority to adopt an ordinance requiring
the owner of any dwelling or building under determination
of the State Fire Marshal, as provided in section twelve,
article three, chapter twenty-nine of this code, or under
order of the code enforcement agency of the municipality,
to pay for the costs of repairing, altering or improving, or of
vacating and closing, removing or demolishing any
dwelling or building and may file a lien against the real
property in question for an amount that reflects all costs
incurred by the municipality for repairing, altering or
improving, or of vacating and closing, removing or
demolishing any dwelling or building.

(h) Every municipality may also institute a civil action
in circuit court against the landowner or other responsible
party to get an order to take corrective action up to and
including demolition of any structure, dwelling or building
that is unsafe, unsanitary, dangerous or detrimental to the
public safety or welfare; and to recover all reasonable costs
and expenses incurred by the municipality with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action:

(1) No fewer than ten days before instituting a civil action as provided in this subsection, the municipality shall send notice to the landowner by certified mail, return receipt requested, advising the landowner of the governing body’s intention to institute such action.

(2) The notice shall be sent to the most recent address of the landowner of record in the office of the assessor of the county where the subject property is located and to any other address for the landowner as may exist on record with the municipality. If, for any reason, such certified mail is returned without evidence of proper receipt, the municipality shall resend the notice(s) by first class mail, postage prepaid, and shall also post notice on the front door or other conspicuous location on the subject property.

(i) To the extent not otherwise authorized by state law, all notices of violation or correction for violations that do not fall within one of the categories set forth in paragraph (A) or (B), subdivision (1), subsection (f) of this section issued by the enforcement agency of a municipality that has adopted the state building code shall be served in accordance with the process set forth in the state building code. All notices of violation or correction orders for violations that do not fall within one of the categories set forth in paragraph (A) or (B), subdivision (1), subsection (f) of this section issued by a code enforcement agency of a municipality that has not adopted the state building code shall be served in accordance with the law of this state concerning the service of process in civil actions, except that personal service may be made by a code enforcement agency official and the method of service effectuated by mail by the clerk of a court as permitted by Rule 4(d)(1)(D) of the West Virginia Rules of Civil Procedure is effectuated by mailing by a code enforcement agency official and shall
be posted in a conspicuous place on the property that is the
subject of the notice of violation or correction.

(j) Any violation of an ordinance adopted under this
section, may be prosecuted by the municipality consistent with
state and local laws. Unless otherwise authorized by state law,
prosecution of a violation shall be initiated by a complaint
presented to and sworn or affirmed before a municipal judge
or other municipal official with lawful authority to hear and
determine violations of municipal code in the municipality
where the offense is alleged to have occurred. Unless
otherwise provided by statute, the presentation and oath or
affirmation shall be made by a code enforcement agency
official or municipal attorney showing reason to have reliable
information and belief. If from the facts stated in the complaint
the municipal judge or other municipal official with lawful
authority to hear and determine violations of municipal code
finds probable cause, the complaint becomes the charging
instrument initiating a criminal proceeding. A complaint
lawfully authorized by this subsection along with a summons
setting forth the date, time and place of appearance before a
municipal judge and or other municipal official with lawful
authority to hear and determine violations of municipal code
shall be served in accordance with the law of the State of West
Virginia concerning the service of process in civil actions,
except that personal service of a summons and complaint may
be made by a code enforcement agency official. If service is
made by certified mail under Rule 4(d)(1)(D) of the West
Virginia Rules of Civil Procedure and delivery of the
summons and complaint is refused, the code enforcement
agency official, promptly upon the receipt of the notice of the
refusal, shall mail to the person or entity being noticed, by first
class mail, postage prepaid, a copy of the summons and
complaint. If the first class mailing is not returned as
undeliverable by the U. S. Postal Service, service of the
summons and complaint is presumed to have been effectuated.
Upon service of the summons and complaint consistent with
this subsection, the violation may be prosecuted consistent
with state and local law.
AN ACT to amend and reenact §8-22-20 of the Code of West Virginia, 1931, as amended, relating to municipal policemen’s or firemen’s pension and relief funds that are funded at one hundred and twenty-five percent or more; and authorizing certain costs not be paid.

Be it enacted by the Legislature of West Virginia:

That §8-22-20 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN’S PENSION AND RELIEF FUND; FIREMEN’S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.

§8-22-20. Actuary; actuarial valuation report; minimum standards for annual municipality contributions to the fund; definitions; actuarial review and audit.

(a) The West Virginia Municipal Pensions Oversight Board shall contract with or employ a qualified actuary to annually prepare an actuarial valuation report on each pension and relief fund. The selection of contract vendors to provide actuarial services, including the reviewing actuary as provided in subsection (c) of this section, shall be by...
competitive bid process but is specifically exempt from purchasing provisions of article three, chapter five-a of this code. The expense of the actuarial report shall be paid from moneys in the Municipal Pensions Security Fund. Uses of the actuarial valuations from the qualified actuary shall include, but not be limited to, determining a municipal policemen’s or firemen’s pension and relief fund’s eligibility to receive state money and to provide supplemental benefits.

(b) The actuarial valuation report provided pursuant to subsection (a) of this section shall consist of, but is not limited to, the following disclosures: (1) The financial objective of the fund and how the objective is to be attained; (2) the progress being made toward realization of the financial objective; (3) recent changes in the nature of the fund, benefits provided or actuarial assumptions or methods; (4) the frequency of actuarial valuation reports and the date of the most recent actuarial valuation report; (5) the method used to value fund assets; (6) the extent to which the qualified actuary relies on the data provided and whether the data was certified by the funds Auditor or examined by the qualified actuary for reasonableness; (7) a description and explanation of the actuarial assumptions and methods; (8) an evaluation of each plan using the alternative funding method, to assess advantages of changing to other funding methods as provided in this article; and (9) any other information required in section twenty-a of this article or that the qualified actuary feels is necessary or would be useful in fully and fairly disclosing the actuarial condition of the fund.

(c)(1) Except as provided in subsections (e) and (f) of this section, beginning June 30, 1991, and thereafter, the financial objective of each municipality shall not be less than to contribute to the fund annually an amount which, together with the contributions from the members and the allocable portion of the Municipal Pensions and Protection Fund for municipal pension and relief funds established under section fourteen-d, article three, chapter thirty-three
of this code or a municipality’s allocation from the Municipal Pensions Security Fund created in section eighteen-b of this article and other income sources as authorized by law will be sufficient to meet the normal cost of the fund and amortize any actuarial deficiency over a period of not more than forty years beginning from July 1, 1991: Provided, That in the fiscal year ending June 30, 1991, the municipality may elect to make its annual contribution to the fund using an alternative contribution in an amount not less than: (i) One hundred seven percent of the amount contributed for the fiscal year ending June 30, 1990; or (ii) an amount equal to the average of the contribution payments made in the five highest fiscal years beginning with the fiscal year ending 1984, whichever is greater: Provided, however, That contribution payments in subsequent fiscal years under this alternative contribution method may not be less than one hundred seven percent of the amount contributed in the prior fiscal year: Provided further, That in order to avoid penalizing municipalities and to provide flexibility when making contributions, municipalities using the alternative contribution method may exclude a one-time additional contribution made in any one year in excess of the minimum required by this section: And provided further, That the governing body of any municipality may elect to provide an employer continuing contribution of one percent more than the municipality’s required minimum under the alternative contribution plan authorized in this subsection: And provided further, That if any municipality decides to contribute an additional one percent, then that municipality may not reduce the additional contribution until the respective pension and relief fund no longer has any actuarial deficiency: And provided further, That any decision and any contribution payment by the municipality is not the liability of the State of West Virginia: And provided further, That if any municipality or any pension fund board of trustees makes a voluntary election and thereafter fails to contribute the voluntarily increase as provided in this section and in subsection (c), section nineteen of this article, then the board
of trustees is not eligible to receive funds allocated under
section fourteen-d, article three, chapter thirty-three of this
code: And provided further, That prior to using this
alternative contribution method the actuary of the fund shall
certify in writing that the fund is projected to be solvent
under the alternative contribution method for the next
consecutive fifteen-year period. For purposes of
determining this minimum financial objective: (i) The value
of the fund’s assets shall be determined on the basis of any
reasonable actuarial method of valuation which takes into
account fair market value; and (ii) all costs, deficiencies,
rate of interest and other factors under the fund shall be
determined on the basis of actuarial assumptions and
methods which, in aggregate, are reasonable (taking into
account the experience of the fund and reasonable
expectations) and which, in combination, offer the qualified
actuary’s best estimate of anticipated experience under the
fund: And provided further, That any municipality which
elected the alternative funding method under this section
and which has an unfunded actuarial liability of not more
than twenty-five percent of fund assets, may, beginning
September 1, 2003, elect to revert to the standard funding
method, which is to contribute to the fund annually an
amount which is not less than an amount which, together
with the contributions from the members and the allocable
portion of the Municipal Pensions and Protection Fund for
municipal pension and relief funds established under section
fourteen-d, article three, chapter thirty-three of this code and
other income sources as authorized by law, will be sufficient
to meet the normal cost of the fund and amortize any
actuarial deficiency over a period of not more than forty
years, beginning from July 1, 1991.

(2) No municipality may anticipate or use in any manner
any state funds accruing to the police or fireman’s pension
fund to offset the minimum required funding amount for any
fiscal year.
(3) Notwithstanding any other provision of this section or article to the contrary, each municipality shall contribute annually to its policemen’s pension and relief fund and its firemen’s pension and relief fund an amount which may not be less than the normal cost, as determined by the annual actuarial valuation report required by this section: Provided, That in any fiscal year in which the actuarial valuation report determines that a municipality’s policemen’s pension and relief fund or firemen’s pension and relief fund is funded at one hundred and twenty-five percent or higher and the Municipal Pensions Oversight Board’s actuary provides an actuarial recommendation that the normal cost does not need to be paid by the employer for that fiscal year, that municipality may elect to make no contribution for that fiscal year. A municipality’s election not to contribute the normal cost in any year does not affect the payments required by section nineteen of this article by members to a pension and relief fund and these payments are to continue as required by that section.

(4) The actuarial process, which includes the selection of methods and assumptions, shall be reviewed by the qualified actuary no less than once every five years. Furthermore, the qualified actuary shall provide a report to the oversight board with recommendations on any changes to the actuarial process.

(5) The oversight board shall hire an independent reviewing actuary to perform an actuarial audit of the work performed by the qualified actuary no less than once every seven years.

d) For purposes of this section, the term “qualified actuary” means only an actuary who is a member of the Society of Actuaries or the American Academy of Actuaries. The qualified actuary shall be designated a fiduciary and shall discharge his or her duties with respect to a fund solely in the interest of the members and members’ beneficiaries of that fund. In order for the standards of this section to be met, the qualified actuary shall certify that the
actuarial valuation report is complete and accurate and that
in his or her opinion the technique and assumptions used are
reasonable and meet the requirements of this section.

(e)(1) Beginning January 1, 2010, municipalities may
choose the optional method of financing municipal
policemen’s or firemen’s pension and relief funds as
outlined in this subsection in lieu of the standard or
alternative methods as provided in subdivision (1),
subsection (c) of this section.

(2) For those municipalities choosing the optional method
of finance, the minimum standard for annual municipality
contributions to each policemen’s or firemen’s pension and
relief fund shall be an amount which, together with the
contributions from the members and allocable portion of the
Municipal Pensions and Protection Fund or Municipal
Pensions Security Fund created in section eighteen-b of this
article, and other income sources as authorized by law, will be
sufficient to meet the normal cost of the fund and amortize any
actuarial deficiency over a period of not more than forty years
beginning January 1, 2010: Provided, That those
municipalities using the standard method of financing in 2009
shall continue to amortize their actuarial deficiencies over a
period of not more than forty years beginning July 1, 1991. The
required contribution shall be determined each plan year as
described above by the actuary retained by the oversight board,
based on an actuarial valuation reflecting actual demographic
and investment experience and consistent with the Actuarial
Standards of Practice published by the Actuarial Standards
Board.

(3) A municipality choosing the optional method of
financing a policemen’s or firemen’s pension and relief fund
as provided in this subsection shall close the fund to police
officers or fire fighters newly hired on or after January 1, 2010,
and provide for those employees to be members of the
Municipal Police Officers and Firefighters Retirement System
as established in article twenty-two-a of this chapter.
(f)(1) Beginning April 1, 2011, any municipality using the alternative method of financing may choose a conservation method of financing its municipal policemen’s and firemen’s pension and relief funds as outlined in this subsection, in lieu of the alternative method as provided in subdivision (1), subsection (c), or the optional method as provided in subsection (e) of this section.

(2) For those municipalities choosing the conservation method of finance, until a plan is funded at one hundred percent, a part of each plan member’s employee contribution to the fund equal to one and one-half percent of the employee’s compensation, shall be deposited into and remain in the trust and accumulate investment return. In addition, until a plan is funded at one hundred percent, an actuarially determined portion of the premium tax allocation to each fund provided in accordance with section fourteen-d, article three, and section seven, article twelve-c of chapter thirty-three of this code shall also be deposited into and remain in the trust and accumulate investment return. This variable percentage of premium tax allocation to be retained in each fund shall be determined annually by the qualified actuary provided pursuant to subsection (a) of this section to be an amount required, along with other assets of the fund as necessary to reach a funded level of one hundred percent in thirty-five years from the time of adoption of the conservation financing method. The variable percentage shall be calculated using a prospective four-year rolling average.

(3) Upon adoption of the conservation method of finance, the municipality shall close its pension and relief funds to new members and shall place police officers and firefighters newly hired after adoption of the conservation method into the Municipal Police Officers and Firefighters Retirement System created in article twenty-two-a of this chapter.

(4) Upon adoption of the conservation method of financing, the minimum standard for annual municipality contributions to each policemen’s or firemen’s pension and relief fund shall be an amount which, together with member
contributions and premium tax proceeds not required to be retained in the trust pursuant to this subsection, and other income sources as authorized by law, is sufficient to meet the annual benefit and administrative expense payments from the funds on a pay-as-you-go basis: \textit{Provided, That at the time the actuarial report required by this section indicates no actuarial deficiency in the municipal policemen’s or firemen’s pension and relief fund, the minimum annual required contribution of the municipality may not be less than an amount which together with all member contributions and other income authorized by law, is sufficient to pay normal cost.}

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\textbf{CHAPTER 158}


[By Request of the Municipal Pensions Oversight Board]

[Passed April 8, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 24, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §8-22-27a and §8-22-27b, all relating to administration of municipal pensions; establishing procedures to correct errors in the administration of municipal pensions; making the act of fraud in relation to a record of a municipal pension a misdemeanor; and providing for criminal penalties.

\textit{Be it enacted by the Legislature of West Virginia:}

That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §8-22-27a and §8-22-27b, all to read as follows:
ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN’S PENSION AND RELIEF FUND; FIREMEN’S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.

§8-22-27a. Correction of errors; underpayments; overpayments.

(a) General rule. — Upon learning of errors, the municipal policemen’s pension and relief fund board of trustees or the municipal firemen’s pension and relief fund board of trustees shall correct errors in the plan in a timely manner whether the individual, municipality or board of trustees was at fault for the error with the intent of placing the affected individual, municipality and pension board of trustees in the position each would have been in had the error not occurred. Should the municipal policemen’s or firemen’s pension and relief fund board of trustees fail to correct discovered errors, the Municipal Pensions Oversight Board shall have the authority to order the pension fund board of trustees to correct such errors. Any order issued by the Municipal Pensions Oversight Board shall be enforceable by an action at law.

(b) Underpayments to the plan. — Any error resulting in an underpayment to the plan may be corrected by the member or retirant remitting the required employee contribution or underpayment and the municipality remitting the required municipality contribution or underpayment. The rate of interest applicable to employer error payments in a Municipal Policemen’s or Municipal Firemen’s Pension and Relief Fund shall be the actuarial interest rate assumption as approved by the Municipal Pensions Oversight Board for completing the Actuarial Valuation for the plan year immediately preceding the first day of the plan year in which the employer error payment is made, compounded per annum. Any accumulating interest owed on the employee and employer contributions or
underpayments resulting from an employer error shall be the responsibility of the employer. The employer may remit total payment and the employee reimburse the employer through payroll deduction over a period equivalent to the time period during which the employer error occurred. If the correction of an error involving an underpayment to the plan will result in the plan correcting an erroneous underpayment from the plan, the correction of the underpayment from the plan shall be made only after the board of trustees receives full payment of all required employee and employer contributions or underpayments, including interest.

(c) **Overpayments to the plan by an employee.** — When mistaken or excess employee contributions or overpayments have been made to the plan, the Municipal Policemen’s or Municipal Firemen’s Pension and Relief Fund board of trustees shall have sole authority for determining the means of return, offset or credit to or for the benefit of the individual making the mistaken or excess employee contribution of the amounts, and may use any means authorized or permitted under the provisions of section 401(a), *et seq.* of the Internal Revenue Code and guidance issued thereunder applicable to governmental plans. Alternatively, in its full and complete discretion, the Municipal Policemen’s or Municipal Firemen’s Pension and Relief Fund board of trustees may require the municipality employing the individual to pay the individual the amounts as wages, with the board of trustees crediting the employer with a corresponding amount to offset against its future contributions to the plan. If the municipality has no future liability for municipality contributions to the plan, the board of trustees shall refund said amount directly to the municipality: *Provided,* That the wages paid to the individual shall not be considered compensation for any purposes of this article. Earnings or interest shall not be returned, offset, or credited under any of the means used by the board of trustees for returning employee overpayments.
(d) Overpayments from the plan. — If any error results in any member, retirant, beneficiary, entity or other individual receiving from the plan more than he would have been entitled to receive had the error not occurred the board of trustees after learning of the error shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board of trustees shall prospectively adjust the payment of the benefit to the correct amount. In addition, the member, retirant, beneficiary, entity or other person who received the overpayment from the plan shall repay the amount of any overpayment to the municipal policemen’s pension fund or municipal firemen’s pension fund in any manner permitted by the board of trustees of that fund. Interest shall not accumulate on any corrective payment made to the plan pursuant to this subsection.

(e) Underpayments from the plan. — If any error results in any member, retirant, beneficiary, entity or other individual receiving from the plan less than he would have been entitled to receive had the error not occurred, the board of trustees, upon learning of the error, shall correct the error in a timely manner. If correction of the error occurs after annuity payments to a retirant or beneficiary have commenced, the board of trustees shall prospectively adjust the payment of the benefit to the correct amount. In addition, the board of trustees shall pay the amount of such underpayment to the member, retirant, beneficiary or other individual in a lump sum. Interest shall not be paid on any corrective payment made by the municipal policemen’s pension fund or municipal firemen’s pension fund pursuant to this subsection.

§8-22-27b. Fraud; penalties; and repayment.

Any person who knowingly makes any false statement or who falsifies or permits to be falsified any record of a municipal policemen’s or municipal firemen’s pension and relief fund in any attempt to defraud that system is guilty of a misdemeanor and, upon conviction thereof, shall be fined
CHAPTER 159

(S. B. 392 - By Senator Gaunch)

[Passed April 4, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 18, 2017.]

AN ACT to amend and reenact §8-22A-2, §8-22A-17 and §8-22A-18 of the Code of West Virginia, 1931, as amended, all relating to the Municipal Police Officers and Firefighters Retirement System; defining the term “vested”; clarifying factors determining duty/nonduty disability payouts; and requiring ten or more years of contributory service as a municipal police officer or municipal firefighter for a member to be eligible to receive benefits for nonduty disability.

Be it enacted by the Legislature of West Virginia:

That §8-22A-2, §8-22A-17 and §8-22A-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.

As used in this article, unless a federal law or regulation or the context clearly requires a different meaning:

(a) “Accrued benefit” means on behalf of any member two and six-tenths percent per year of the member’s final average salary for the first twenty years of credited service. Additionally, two percent per year for twenty-one through twenty-five years and one percent per year for twenty-six through thirty years will be credited with a maximum benefit of sixty-seven percent of a member’s final average salary. A member’s accrued benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the provisions of section ten of this article.

(b) “Accumulated contributions” means the sum of all retirement contributions deducted from the compensation of a member, or paid on his or her behalf as a result of covered employment, together with regular interest on the deducted amounts.

(c) “Active military duty” means full-time duty in the active military service of the United States Army, Navy, Air Force, Coast Guard or Marine Corps. The term does not include regularly required training or other duty performed by a member of a reserve component or National Guard unless the member can substantiate that he or she was called into the full-time active military service of the United States and has received no compensation during the period of that duty from any board or employer other than the armed forces.

(d) “Actuarial equivalent” means a benefit of equal value computed on the basis of the mortality table and interest rates as set and adopted by the board in accordance with the provisions of this article: Provided, That when used in the context of compliance with the federal maximum benefit requirements of Section 415 of the Internal Revenue Code, “actuarial equivalent” shall be computed using the
(e) “Annual compensation” means the wages paid to the member during covered employment within the meaning of Section 3401(a) of the Internal Revenue Code, but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of employment or services performed during the plan year plus amounts excluded under Section 414(h)(2) of the Internal Revenue Code and less reimbursements or other expense allowances, cash or noncash fringe benefits, or both, deferred compensation and welfare benefits. Annual compensation for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost-of-living in accordance with section seven, article ten-d, chapter five of this code and Section 401(a)(17) of the Internal Revenue Code.

(f) “Annual leave service” means accrued annual leave.

(g) “Annuity starting date” means the first day of the month for which an annuity is payable after submission of a retirement application or the required beginning date, if earlier. For purposes of this subsection, if retirement income payments commence after the normal retirement age, “retirement” means the first day of the month following or coincident with the latter of the last day the member worked in covered employment or the member’s normal retirement age and after completing proper written application for retirement on an application supplied by the board.

(h) “Board” means the Consolidated Public Retirement Board.

(i) “Covered employment” means either: (1) Employment as a full-time municipal police officer or firefighter and the active performance of the duties required...
of that employment; or (2) the period of time during which active duties are not performed but disability benefits are received under this article; or (3) concurrent employment by a municipal police officer or firefighter in a job or jobs in addition to his or her employment as a municipal police officer or firefighter in this plan where the secondary employment requires the police officer or firefighter to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to this code: Provided, That the police officer or firefighter contributes to the fund created in this article the amount specified as the member’s contribution in section eight of this article.

(j) “Credited service” means the sum of a member’s years of service, active military duty and disability service.

(k) “Dependent child” means either: (1) An unmarried person under age eighteen who is: (A) A natural child of the member; (B) a legally adopted child of the member; (C) a child who at the time of the member’s death was living with the member while the member was an adopting parent during any period of probation; or (D) a stepchild of the member residing in the member’s household at the time of the member’s death; or (2) Any unmarried child under age twenty-three: (A) Who is enrolled as a full-time student in an accredited college or university; (B) who was claimed as a dependent by the member for federal income tax purposes at the time of the member’s death; and (C) whose relationship with the member is described in paragraph (A), (B) or (C), subdivision (1) of this subsection.

(l) “Dependent parent” means the father or mother of the member who was claimed as a dependent by the member for federal income tax purposes at the time of the member’s death.

(m) “Disability service” means service credit received by a member, expressed in whole years, fractions thereof, or both, equal to one half of the whole years, fractions
thereof, or both, during which time a member receives
disability benefits under this article.


(o) “Final average salary” means the average of the
highest annual compensation received for covered
employment by the member during any five consecutive
plan years within the member’s last ten years of service
while employed, prior to any disability payment. If the
member did not have annual compensation for the five full
plan years preceding the member’s attainment of normal
retirement age and during that period the member received
disability benefits under this article, then “final average
salary” means the average of the monthly compensation
which the member was receiving in the plan year prior to
the initial disability. “Final average salary” does not include
any lump sum payment for unused, accrued leave of any
kind or character.

(p) “Full-time employment” means permanent
employment of an employee by a participating municipality
in a position which normally requires twelve months per
year service and requires at least one thousand forty hours
per year service in that position.

(q) “Fund” means the West Virginia Municipal Police
Officers and Firefighters Retirement Fund created by this
article.

(r) “Hour of service” means: (1) Each hour for which
a member is paid or entitled to payment for covered
employment during which time active duties are performed.
These hours shall be credited to the member for the plan
year in which the duties are performed; and (2) each hour
for which a member is paid or entitled to payment for
covered employment during a plan year but where no duties
are performed due to vacation, holiday, illness, incapacity
including disability, layoff, jury duty, military duty, leave
of absence or any combination thereof and without regard
to whether the employment relationship has terminated. Hours under this subdivision shall be calculated and credited pursuant to West Virginia Division of Labor rules. A member will not be credited with any hours of service for any period of time he or she is receiving benefits under section seventeen or eighteen of this article; and (3) each hour for which back pay is either awarded or agreed to be paid by the employing municipality, irrespective of mitigation of damages. The same hours of service shall not be credited both under subdivision (1) or (2) of this subsection and under this subdivision. Hours under this paragraph shall be credited to the member for the plan year or years to which the award or agreement pertains, rather than the plan year in which the award, agreement or payment is made.

(s) “Member” means, except as provided in sections thirty-two or thirty-three of this article, a person hired as a municipal police officer or municipal firefighter, as defined in this section, by a participating municipal employer on or after January 1, 2010. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited.

(t) “Monthly salary” means the W-2 reportable compensation received by a member during the month.

(u) “Municipality” has the meaning ascribed to it in this code.

(v)(1) “Municipal police officer” means an individual employed as a member of a paid police department by a West Virginia municipality or municipal subdivision which has established and maintains a municipal policemen’s pension and relief fund, and who is not a member of, and not eligible for membership in, a municipal policemen’s pension and relief fund as provided in section sixteen, article twenty-two of this chapter: Provided, That municipal police officer also means an individual employed as a member of a paid police department by a West Virginia
municipality or municipal subdivision which is authorized
to elect to participate in the plan pursuant to section thirty-
three of this article. Paid police department does not mean a
department whose employees are paid nominal salaries or
wages or are paid only for services actually rendered on an
hourly basis.

(2) “Municipal firefighter” means an individual
employed as a member of a paid fire department by a West
Virginia municipality or municipal subdivision which has
established and maintains a municipal firemen’s pension
and relief fund, and who is not a member of, and not eligible
for membership in, a municipal firemen’s pension and relief
fund as provided in section sixteen, article twenty-two of
this chapter: Provided, That municipal firefighter also
means an individual employed as a member of a paid fire
department by a West Virginia municipality or municipal
subdivision which is authorized to elect to participate in the
plan pursuant to section thirty-three of this article. Paid fire
department does not mean a department whose employees
are paid nominal salaries or wages or are paid only for
services actually rendered on an hourly basis.

(w) “Municipal subdivision” means any separate
corporation or instrumentality established by one or more
municipalities, as permitted by law; and any public
corporation charged by law with the performance of a
governmental function and whose jurisdiction is
coeextensive with one or more municipalities.

(x) “Normal form” means a monthly annuity which is
one twelfth of the amount of the member’s accrued benefit
which is payable for the member’s life. If the member dies
before the sum of the payments he or she receives equals his
or her accumulated contributions on the annuity starting
date, the named beneficiary shall receive in one lump sum
the difference between the accumulated contributions at the
annuity starting date and the total of the retirement income
payments made to the member.
(y) “Normal retirement age” means the first to occur of the following: (1) Attainment of age fifty years and the completion of twenty or more years of regular contributory service; (2) while still in covered employment, attainment of at least age fifty years and when the sum of current age plus regular contributory service equals or exceeds seventy years; (3) while still in covered employment, attainment of at least age sixty years and completion of ten years of regular contributory service; or (4) attainment of age sixty-two years and completion of five or more years of regular contributory service.

(z) “Plan” means the West Virginia Municipal Police Officers and Firefighters Retirement System established by this article.

(aa) “Plan year” means the twelve-month period commencing on January 1 of any designated year and ending the following December 31.

(bb) “Qualified public safety employee” means any employee of a participating state or political subdivision who provides police protection, firefighting services or emergency medical services for any area within the jurisdiction of the state or political subdivision, or such other meaning given to the term by Section 72(t) (10) (B) of the Internal Revenue Code or by Treasury Regulation §1.401(a)-1(b) (2) (v) as they may be amended from time to time.

(cc) “Regular contributory service” means a member’s credited service excluding active military duty, disability service and accrued annual and sick leave service.

(dd) “Regular interest” means the rate or rates of interest per annum, compounded annually, as the board adopts in accordance with the provisions of this article.

(ee) “Required beginning date” means April 1 of the calendar year following the later of: (1) The calendar year...
in which the member attains age seventy and one-half; or
(2) the calendar year in which he or she retires or otherwise
separates from covered employment.

(ff) “Retirement income payments” means the
monthly retirement income payments payable under the
plan.

(gg) “Spouse” means the person to whom the member
is legally married on the annuity starting date.

(hh) “Surviving spouse” means the person to whom
the member was legally married at the time of the member’s
death and who survived the member.

(ii) “Totally disabled” means a member’s inability to
engage in substantial gainful activity by reason of any
medically determined physical or mental impairment that
can be expected to result in death or that has lasted or can
be expected to last for a continuous period of not less than
twelve months. For purposes of this subsection: (1) A
member is totally disabled only if his or her physical or
mental impairment or impairments is so severe that he or
she is not only unable to perform his or her previous work
as a police officer or firefighter but also cannot, considering
his or her age, education and work experience, engage in
any other kind of substantial gainful employment which
exists in the state regardless of whether: (A) The work exists
in the immediate area in which the member lives; (B) a
specific job vacancy exists; or (C) the member would be
hired if he or she applied for work. For purposes of this
article, substantial gainful employment is the same
definition as used by the United States Social Security
Administration; and (2) “Physical or mental impairment” is
an impairment that results from an anatomical,
physiological or psychological abnormality that is
demonstrated by medically accepted clinical and laboratory
diagnostic techniques. The board may require submission of
a member’s annual tax return for purposes of monitoring the
earnings limitation.
“Vested” means eligible for retirement income payments after completion of five or more years of regular contributory service.

“Year of service” means a member shall, except in his or her first and last years of covered employment, be credited with years of service credit based on the hours of service performed as covered employment and credited to the member during the plan year based on the following schedule:

<table>
<thead>
<tr>
<th>Hours of Service</th>
<th>Year of Service Credited</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 500</td>
<td>0</td>
</tr>
<tr>
<td>500 to 999</td>
<td>1/3</td>
</tr>
<tr>
<td>1,000 to 1,499</td>
<td>2/3</td>
</tr>
<tr>
<td>1,500 or more</td>
<td>1</td>
</tr>
</tbody>
</table>

During a member’s first and last years of covered employment, the member shall be credited with one twelfth of a year of service for each month during the plan year in which the member is credited with an hour of service for which contributions were received by the fund. A member is not entitled to credit for years of service for any time period during which he or she received disability payments under section seventeen or eighteen of this article.

§8-22A-17. Awards and benefits for disability — duty related; exception during early period.

(a) Except as provided in subsection (a), section nine of this article, any member who after the effective date of this article and during covered employment: (1) Has been or becomes totally disabled by injury, illness or disease; and (2) the disability is a result of an occupational risk or hazard inherent in or peculiar to the services required of members; or (3) the disability was incurred while performing police officer or firefighter functions during either scheduled work hours or at any other time; and (4) in the opinion of two physicians after
medical examination, at least one of whom shall be named by
the board, the member is by reason of the disability not only
unable to perform his or her previous work as a police officer
or firefighter but also cannot, considering his or her age,
education and work experience, engage in any other kind of
substantial gainful employment which exists in the state
regardless of whether: (A) The work exists in the immediate
area in which the member lives; (B) a specific job vacancy
exists; or (C) the member would be hired if he or she applied
for work, is entitled to receive and shall be paid from the fund
in monthly installments during the lifetime of the member or,
if sooner, until the member attains normal retirement age or
until the disability sooner terminates, the compensation under
this section. For purposes of this article, substantial gainful
employment is the same definition as used by the United States
Social Security Administration.

(b) If the member is totally disabled, the member shall
receive ninety percent of his or her average monthly
compensation for months in which full compensation was
received for the twelve-month contributory period
preceding the member’s disability or the shorter period if
the member has not worked twelve months.

(c) If the member remains totally disabled until attaining
sixty-five years of age, the member shall then receive the
retirement benefit provided in sections fourteen and fifteen
of this article.

§8-22A-18. Awards and benefits for disability — due to other
causes; exception during early period.

(a) Except as provided in subsection (a), section nine of
this article, any municipal police officer or municipal
firefighter with ten or more years of contributory service
who, after the effective date of this article and during covered
employment: (1) Has been or becomes totally disabled from
any cause other than those set forth in section seventeen of
this article and not due to vicious habits, intemperance or
willful misconduct on his or her part; and (2) in the opinion
of two physicians after medical examination, at least one of
whom shall be named by the board, he or she is by reason of
the disability not only unable to perform his or her previous work as a police officer or firefighter but also cannot, considering his or her age, education and work experience, engage in any other kind of substantial gainful employment which exists in the state regardless of whether: (A) The work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work, is entitled to receive and shall be paid from the fund in monthly installments during the lifetime of the member or, if sooner, until the member attains normal retirement age or until the disability sooner terminates, the compensation set forth in, either subsection (b) or (c) of this section.

(b) If the member is totally disabled, he or she shall receive sixty-six and two-thirds percent of his or her average monthly compensation for months in which full compensation was received for the twelve-month contributory period preceding the disability.

(c) If the member remains totally disabled until attaining sixty years of age, then the member shall receive the retirement benefit provided in sections fourteen and fifteen of this article.

CHAPTER 160

(Com. Sub. for H. B. 2709 - By Delegates Nelson, Lane, Byrd, Walters, N. Foster, Rowe, Robinson, White, Pushkin, Capito and Mr. Speaker (Mr. Armstead))

[Passed April 6, 2017; in effect ninety days from passage.] [Approved by the Governor on April 26, 2017.]

AN ACT to amend and reenact §8-38-9 of the Code of West Virginia, 1931, as amended, relating to the Legislature’s
authorizing the City of South Charleston to levy a special district excise tax for the benefit of the South Charleston Park Place Economic Opportunity Development District.

*Be it enacted by the Legislature of West Virginia:*

That §8-38-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 38. MUNICIPAL ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.**


(a) *General.* — Municipalities have no inherent authority to levy taxes and have only that authority expressly granted to them by the Legislature. The Legislature is specifically extended, and intends by this article to exercise certain relevant powers expressed in section six-a, article X of the Constitution of this state as follows: (1) The Legislature may appropriate state funds for use in matching or maximizing grants-in-aid for public purposes from the United States or any department, bureau, commission or agency thereof, or any other source, to any county, municipality or other political subdivision of the state, under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe by law; and (2) the Legislature may impose a state tax or taxes or dedicate a state tax or taxes or any portion thereof for the benefit of and use by counties, municipalities or other political subdivisions of the state for public purposes, the proceeds of any such imposed or dedicated tax or taxes or portion thereof to be distributed to such counties, municipalities or other political subdivisions of the state under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe.

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

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

The City of South Charleston may levy a special district excise tax for the benefit of the South Charleston Park Place Economic Opportunity Development District which comprises up to two thousand one hundred contiguous acres of land.

CHAPTER 161

(Com. Sub. for H. B. 3096 - By Delegate Espinosa)

[Passed April 8, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 26, 2017.]

AN ACT to repeal §8-16-19 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-13A-8 and §16-13A-9
of said code; to amend and reenact §24-1-1b of said code; to amend and reenact §24-2-1, §24-2-3, §24-2-4b and §24-2-11 of said code, all relating to the operation and regulation of utilities and services generally; modifying procedures and requirements for the operation and regulation of certain water and sewer utilities owned or operated by political subdivisions of the state; eliminating reference to appeals to the Public Service Commission from actions of municipal boards that are not subject to the jurisdiction of the Public Service Commission; prohibiting Public Service Commission jurisdiction of Internet protocol-enabled service and voice-over Internet protocol-enabled service; defining the terms “Internet protocol-enabled service” and “Voice-over Internet protocol service”; limiting Public Service Commission jurisdiction of certain telephone company transactions; relating to the authority of county commissions to modify proposed rates for certain water and sewer utilities and providing for complaints to be filed with the circuit courts pertaining to rates and charges enacted as proposed, modified or rejected by the county commission; eliminating Public Service Commission authority regarding stormwater utilities; providing time limits for the filing of requests for investigations pertaining to political subdivisions providing separate or combined water and/or sewer services and having at least four thousand five hundred customers and annual combined gross revenues of $3 million or more; clarifying the authority of the Public Service Commission to resolve complaints of customers of water and sewer utilities operated by a political subdivision of the state having at least four thousand five hundred customers and annual combined gross revenues of $3 million or more; clarifying the jurisdiction of the Public Service Commission relating to rates for municipal water and/or sewer utilities having less than four thousand five hundred customers or annual combined gross revenues of less than $3 million; revising the notice and procedure provisions for construction projects for political subdivisions of this state providing separate or combined water and/or sewer services and having at least four thousand five hundred customers and annual combined gross revenues of $3 million or more; and
providing procedures for a public service district or a
customer satisfying certain requirements to file a complaint in
circuit court to contest the action or inaction of a county
commission regarding rate proposals and construction
projects that are not in the ordinary course of business.

Be it enacted by the Legislature of West Virginia:

That §8-16-19 of the Code of West Virginia, 1931, as
amended, be repealed; that §16-13A-8 and §16-13A-9 of said
code be amended and reenacted; that §24-1-1b of said code be
amended and reenacted; that §24-2-1, §24-2-3, §24-2-4b and §24-
2-11 of said code be amended and reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 13A. PUBLIC SERVICE DISTRICTS.

§16-13A-8. Acquisition and purchase of public service
properties; right of eminent domain; extraterritorial
powers.

1 The board may acquire any publicly or privately owned
2 public service properties located within the boundaries of
3 the district regardless of whether or not all or any part of
4 such properties are located within the corporate limits of any
5 city, incorporated town or other municipal corporation
6 included within the district and may purchase and acquire
7 all rights and franchises and any and all property within or
8 outside the district necessary or incidental to the purpose of
9 the district.

10 The board may construct any public service properties
11 within or outside the district necessary or incidental to its
12 purposes and each such district may acquire, construct,
13 maintain and operate any such public service properties
14 within the corporate limits of any city, incorporated town or
15 other municipal corporation included within the district or
16 in any unincorporated territory within ten miles of the
17 territorial boundaries of the district: Provided, That if any
18 incorporated city, town or other municipal corporation
included within the district owns and operates either water facilities, sewer facilities, stormwater facilities or gas facilities or all of these, then the district may not acquire, construct, establish, improve or extend any public service properties of the same kind within such city, incorporated towns or other municipal corporations or the adjacent unincorporated territory served by such cities, incorporated towns or other municipal corporations, except upon, the consent of such cities, incorporated towns or other municipal corporations and in conformity and compliance with the rights of the holders of any revenue bonds or obligations theretofore issued by such cities, incorporated towns or other municipal corporations then outstanding and in accordance with the ordinance, resolution or other proceedings which authorize the issuance of such revenue bonds or obligations.

Whenever such district has constructed, acquired or established water facilities, sewer facilities, a stormwater system, stormwater management program or gas facilities for water, sewer, stormwater or gas services within any city, incorporated town or other municipal corporation included within a district, then such city, incorporated town or other municipal corporation may not thereafter construct, acquire or establish any facilities of the same kind within such city, incorporated town or other municipal corporation without the consent of such district.

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, That the power of eminent domain provided in this section does not extend to highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia
division of highways without the express agreement of the
commissioner of highways: Provided, however, That such
board may not acquire all or any substantial part of a
privately owned waterworks system unless and until
authorized so to do by the public service commission of
West Virginia, and that this section shall not be construed
to authorize any district to acquire through condemnation
proceedings either in whole or substantial part an existing
privately owned waterworks plant or system or gas facilities
located in or furnishing water or gas service within such
district or extensions made or to be made by it in territory
contiguous to such existing plant or system, nor may any
such board construct or extend its public service properties
to supply its services into areas served by or in competition
with existing waterworks or gas facilities or extensions
made or to be made in territory contiguous to such existing
plant or system by the owner thereof.

§16-13A-9. Rules; service rates and charges; discontinuance
of service; required water and sewer connections; lien for
delinquent fees.

(a) (1) The board may make, enact and enforce all
needful rules in connection with the acquisition,
construction, improvement, extension, management,
maintenance, operation, care, protection and the use of any
public service properties owned or controlled by the district.
The board shall establish, in accordance with this article,
rates, fees and charges for the services and facilities it
furnishes, which shall be sufficient at all times,
notwithstanding the provisions of any other law or laws, to
pay the cost of maintenance, operation and depreciation of
the public service properties and principal of and interest on
all bonds issued, other obligations incurred under the
provisions of this article and all reserve or other payments
provided for in the proceedings which authorized the
issuance of any bonds under this article. The schedule of the
rates, fees and charges may be based upon:
(A) The consumption of water or gas on premises connected with the facilities, taking into consideration domestic, commercial, industrial and public use of water and gas;

(B) The number and kind of fixtures connected with the facilities located on the various premises;

(C) The number of persons served by the facilities;

(D) Any combination of paragraphs (A), (B) and (C) of this subdivision; or

(E) Any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways.

(2) The board of a public service district with at least four thousand five hundred customers and annual combined gross revenue of $3 million or more from its separate or combined water and sewer services may make, enact and enforce all needful rules in connection with the enactment or amendment of rates, fees and charges of the district. At a minimum, these rules shall provide for:

(A) Adequate prior public notice of the contemplated rates, fees and charges by causing a notice of intent to effect such a change to be provided to the customers of the district for the month immediately preceding the month in which the contemplated change is to be considered at a hearing by the board. Such notice shall include a statement that a change in rates, fees and charges is being considered, the time, date and location of the hearing of the board at which the change will be considered and that the proposed rates, fees and charges are on file at the office of the District for review during regular
business hours. Such notice shall be printed on, or mailed with, the monthly billing statement, or provided in a separate mailing.

(B) Adequate prior public notice of the contemplated rates, fees and charges by causing to be published, after the first reading and approval of a resolution of the board considering such revised rates, fees and charges but not less than one week prior to the public hearing of the board on such resolution, as a Class I legal advertisement, of the proposed action, in compliance with the provisions of article three, chapter fifty-nine of the code. The publication area for publication shall be all territory served by the district. If the district provides service in more than one county, publication shall be made in a newspaper of general circulation in each county that the district provides service.

(C) The public notice of the proposed action shall summarize the current rates, fees and charges and the proposed changes to said rates, fees and charges; the date, time and place of; the public hearing on the resolution approving such revised rates, fees and charges and the place or places within the district where the proposed resolution approving the revised rates, fees and charges may be inspected by the public. A reasonable number of copies of the proposed resolution shall be kept at the place or places and be made available for public inspection. The notice shall also advise that interested parties may appear at the public hearing before the board and be heard with respect to the proposed revised rates, fees and charges.

(D) The resolution proposing the revised rates, fees and charges shall be read at two meetings of the board with at least two weeks intervening between each meeting. The public hearing may be conducted by the board prior to, or at, the meeting at which the resolution is considered for adoption on the second reading.

(E) Rates, fees and charges approved by resolution of the board shall be forwarded in writing to the county commission with the authority to appoint the members of the board. The
county commission shall publish notice of the proposed revised rates, fees and charges by a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of the code. Within forty-five days of receipt of the proposed rates, fees and charges, the county commission shall take action to approve, modify, or reject the proposed rates, fees and charges, in its sole discretion. If, after forty-five days, the county commission has not taken final action to approve, modify or reject the proposed rates, fees and charges, as presented to the county commission, shall be effective with no further action by the board or county commission. In any event, this 45-day period shall be mandatory unless extended by the official action of both the board proposing the rates, fees and charges, and the appointing county commission.

(F) Enactment of the proposed or modified rates, fees and charges shall follow an affirmative vote by the county commission and shall be effective no sooner than forty-five days following action. The 45-day waiting period may be waived by public vote of the county commission only if the commission finds and declares the district to be in financial distress such that the 45-day waiting period would be detrimental to the ability of the district to deliver continued and compliant public services.

(G) The public service district, or a customer aggrieved by the changed rates or charges who presents to the circuit court a petition signed by at least 750 customers or twenty-five percent of the customers served by the public service district, whichever is fewer, when dissatisfied by the approval, modification, or rejection by the county commission of the proposed rates, fees and charges under the provisions of this subdivision (2) may file a complaint regarding the rates, fees and charges resulting from the action of, or failure to act by, the county commission in the circuit court of the county in which the county commission sits: Provided, That any complaint or petition filed hereunder shall be filed within thirty days of the county commission’s final action approving, modifying or rejecting such rates, fees and charges, or the
expiration of the forty-five day period from the receipt by the county commission, in writing, of the rates, fees and charges approved by resolution of the board, without final action by the county commission to approve, modify or reject such rates, fees and charges, and the circuit court shall resolve said complaint: Provided, however, That the rates, fees and charges so fixed by the county commission, or those adopted by the district upon which the county commission failed to act, shall remain in full force and effect, until set aside, altered or amended by the circuit court in an order to be followed in the future.

(3) Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of section eight, article three, chapter twenty-four of this code to the contrary, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant’s specific customer class or $50, with the district to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or $50 and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant’s specific customer class or $50. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant’s specific
customer class or $50 has been remitted to the district. After twelve months of prompt payment history, the district shall return the deposit to the customer or credit the customer’s account at a rate as the Public Service Commission may prescribe: Provided, That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The board may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, ten days after the water or gas services become delinquent: Provided, however, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the board to accept payment at the customer’s premises in lieu of discontinuing service for a delinquent bill.

(b) In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately water facilities, sewer facilities or stormwater facilities and the district owns and operates another kind of facility, either water or sewer, or both, as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer or stormwater service fees and charges: Provided, That any contracts entered into by a public service district pursuant to this section shall be submitted to the Public Service Commission for approval. Any public service district which provides water and sewer service, water and stormwater service or water, sewer and stormwater service has the right to terminate water service for delinquency in payment
of water, sewer or stormwater bills. Where one public service
district is providing sewer service and another public service
district or a municipality included within the boundaries of the
sewer or stormwater district is providing water service and the
district providing sewer or stormwater service experiences a
delinquency in payment, the district or the municipality
included within the boundaries of the sewer or stormwater
district that is providing water service, upon the request of the
district providing sewer or stormwater service to the
delinquent account, shall terminate its water service to the
customer having the delinquent sewer or stormwater account:

Provided, however, That any termination of water service must
comply with all rules and orders of the Public Service
Commission: Provided further, That nothing contained within
the rules of the Public Service Commission shall be deemed to
require any agents or employees of the public service districts
to accept payment at the customer’s premises in lieu of
discontinuing service for a delinquent bill.

(c) Any district furnishing sewer facilities within the
district may require or may, by petition to the circuit court of
the county in which the property is located, compel or may
require the Division of Health to compel all owners, tenants or
occupants of any houses, dwellings and buildings located near
any sewer facilities where sewage will flow by gravity or be
transported by other methods approved by the Division of
Health, including, but not limited to, vacuum and pressure
systems, approved under the provisions of section nine, article
one, chapter sixteen of this code, from the houses, dwellings
or buildings into the sewer facilities, to connect with and use
the sewer facilities and to cease the use of all other means for
the collection, treatment and disposal of sewage and waste
matters from the houses, dwellings and buildings where there
is gravity flow or transportation by any other methods
approved by the Division of Health, including, but not limited
to, vacuum and pressure systems, approved under the
provisions of section nine, article one of this chapter and the
houses, dwellings and buildings can be adequately served by
the sewer facilities of the district and it is declared that the
mandatory use of the sewer facilities provided for in this subsection is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings’ exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump or any other method approved by the Division of Health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the Public Service Commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

(d) Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near the sewer facility and the engineer for the district has certified that the sewer facilities are available to and are adequate to serve the owner, tenant or occupant and sewage will flow by gravity or be transported by other methods approved by the Division of Health from the house, dwelling or building into the sewer facilities, the district may charge, and the owner, tenant or occupant shall pay, the rates and charges for services established under this article only after thirty days’ notice of the availability of the facilities has been received by the owner, tenant or occupant. Rates and charges for sewage services shall be based upon actual water consumption or the average monthly water consumption based upon the owner’s, tenant’s or occupant’s specific customer class.

(e) The owner, tenant or occupant of any real property may be determined and declared to be served by a stormwater
system only after each of the following conditions is met: (1) the district has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C. F. R. §122.26; (2) the district’s authority has been properly expanded to operate and maintain a stormwater system; (3) the district has made available a stormwater system where stormwater from the real property affects or drains into the stormwater system; and (4) the real property is located in the Municipal Separate Storm Sewer System’s designated service area. It is further hereby found, determined and declared that the mandatory use of the stormwater system is necessary and essential for the health and welfare of the inhabitants and residents of the district and of the state. The district may charge and the owner, tenant or occupant shall pay the rates, fees and charges for stormwater services established under this article only after thirty days’ notice of the availability of the stormwater system has been received by the owner. An entity providing stormwater service shall provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(f) All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, gas facilities or stormwater systems or stormwater management programs are liens on the premises served of equal dignity, rank and priority with the lien on the premises of state, county, school and municipal taxes. Nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the public service districts to accept payment at the customer’s premises in lieu of discontinuing service for a delinquent bill. In addition to the other remedies provided in this section, public service districts are granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer, stormwater or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and
reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts: Provided, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor may any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of the real property unless the owner has contracted directly with the public service district to purchase the services or facilities.

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in section three, article eleven, chapter twenty-two of this code, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the Department of Environmental Protection, as prescribed by section eleven of said article, is exempt from the provisions of this section.

(h) A public service district which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 1. GENERAL PROVISIONS.

§24-1-1b. Supplemental rule for reorganization.

The Public Service Commission shall, by general order, create a division within its staff which shall, upon written request of the governing body of a political subdivision that operates a water and/or sewer utility, provide legal, operational, engineering, financial, ratemaking and accounting advice and assistance to water and/or sewer utilities that are political subdivisions of the state and may
ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

*§24-2-1. Jurisdiction of commission; waiver of jurisdiction.*

(a) The jurisdiction of the commission shall extend to all public utilities in this state and shall include any utility engaged in any of the following public services:

Common carriage of passengers or goods, whether by air, railroad, street railroad, motor or otherwise, by express or otherwise, by land, water or air, whether wholly or partly by land, water or air; transportation of oil, gas or water by pipeline; transportation of coal and its derivatives and all mixtures and combinations thereof with other substances by pipeline; sleeping car or parlor car services; transmission of messages by telephone, telegraph or radio; generation and transmission of electrical energy by hydroelectric or other utilities for service to the public, whether directly or through a distributing utility; supplying water, gas or electricity by municipalities or others; sewer systems servicing twenty-five or more persons or firms other than the owner of the sewer systems: Provided, That if a public utility other than a political subdivision intends to provide sewer service by an innovative, alternative method, as defined by the federal Environmental Protection Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction of the Public Service Commission regardless of the number of customers served by the innovative, alternative method; any public service district created under the provisions of article thirteen-a, chapter sixteen of this code, except that the Public Service Commission will have no jurisdiction over the provision of stormwater services by a public service district;

*Note:* This section was also amended by S. B. 180 (Chapter 209), which passed prior to this act.
toll bridges, wharves, ferries; solid waste facilities; and any other public service: Provided, however, That natural gas producers who provide natural gas service to not more than twenty-five residential customers are exempt from the jurisdiction of the commission with regard to the provisions of such residential service: Provided further, That upon request of any of the customers of such natural gas producers, the commission may, upon good cause being shown, exercise such authority as the commission may deem appropriate over the operation, rates and charges of such producer and for such length of time as the commission may consider to be proper.

(b) The jurisdiction of the commission over political subdivisions of this state providing separate or combined water and/or sewer services and having at least four thousand five hundred customers and annual combined gross revenues of $3 million or more that are political subdivisions of the state is limited to:

1. General supervision of public utilities, as granted and described in section five of this article;
2. Regulation of measurements, practices, acts or services, as granted and described in section seven of this article;
3. Regulation of a system of accounts to be kept by a public utility that is a political subdivision of the state, as granted and described in section eight of this article;
4. Submission of information to the commission regarding rates, tolls, charges or practices, as granted and described in section nine of this article;
5. Authority to subpoena witnesses, take testimony and administer oaths to any witness in any proceeding before or conducted by the commission, as granted and described in section ten of this article; and
6. Investigation and resolution of disputes between a political subdivision of the state providing wholesale water
and/or wastewater treatment or other services, whether by
contract or through a tariff, and its customer or customers,
including, but not limited to, rates, fees and charges, service
areas and contested utility combinations: Provided, That
any request for an investigation related to such a dispute that
is based on the act or omission of the political subdivision
shall be filed within 30 days of the act or omission of the
political subdivision and the commission shall resolve said
dispute within 120 days of filing. The one hundred-twenty
day period for resolution of the dispute may be tolled by the
Commission until the necessary information showing the
basis of the rates, fees and charges or other information as
the commission considers necessary is filed: Provided, however, That disputed rates, fees and charges so fixed by
the political subdivision providing separate or combined
water and/or sewer services shall remain in full force and
effect until set aside, altered or amended by the commission
in an order to be followed in the future.

(7) Customers of water and sewer utilities operated by a
political subdivision of the state may bring formal or
informal complaints regarding the commission’s exercise of
the powers enumerated in this section and the commission
shall resolve these complaints.

(8) In the event that a political subdivision has a
deficiency in either its bond revenue or bond reserve
accounts, or is otherwise in breach of a bond covenant, any
bond holder may petition the Public Service Commission
for such redress as will bring the accounts to current status
or otherwise resolve the breached covenant, and the
commission shall have jurisdiction to fully resolve the
alleged deficiency or breach.

(c) The commission may, upon application, waive its
jurisdiction and allow a utility operating in an adjoining
state to provide service in West Virginia when:
(1) An area of West Virginia cannot be practicably and economically served by a utility licensed to operate within the State of West Virginia;

(2) Said area can be provided with utility service by a utility which operates in a state adjoining West Virginia;

(3) The utility operating in the adjoining state is regulated by a regulatory agency or commission of the adjoining state; and

(4) The number of customers to be served is not substantial. The rates the out-of-state utility charges West Virginia customers shall be the same as the rate the utility is duly authorized to charge in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke its waiver of jurisdiction for good cause.

(d) Any other provisions of this chapter to the contrary notwithstanding:

(1) An owner or operator of an electric generating facility located or to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for which such facility the owner or operator holds a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall be subject to subsections (e), (f), (g), (h), (i) and (j), section eleven-c of this article as if the certificate of public convenience and necessity for such facility were a siting certificate issued under said section and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in subdivision (5) of this subsection.

(2) Any person, corporation or other entity that intends to construct or construct and operate an electric generating
facility to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for which facility the owner or operator does not hold a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of section eleven-c of this article in lieu of a certificate of public convenience and necessity pursuant to the provisions of section eleven of this article. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission shall be subject to subsections (e), (f), (g), (h), (i) and (j), section eleven-c of this article and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in subdivision (5) of this subsection.

(3) An owner or operator of an electric generating facility located in this state that had not been designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that generates electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both such sales at retail and such sales at wholesale and that had been constructed and had engaged in commercial operation on or before July 1, 2003, shall not be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility, regardless of whether such facility subsequent to its construction has been or will be designated as an exempt wholesale generator under applicable federal law: Provided, That such owner or operator shall be subject to subdivision (5) of this subsection if a material modification of such facility is made or constructed.
(4) Any person, corporation or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has not been or will not be designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that will generate electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both such sales at retail and such sales at wholesale and that had not been constructed and had not been engaged in commercial operation on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of section eleven-c of this article in lieu of a certificate of public convenience and necessity pursuant to the provisions of section eleven of this article. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission shall be subject to subsections (e), (f), (g), (h), (i) and (j), section eleven-c of this article and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in subdivision (5) of this subsection.

(5) An owner or operator of an electric generating facility described in this subsection shall, before making or constructing a material modification of the facility that is not within the terms of any certificate of public convenience and necessity or siting certificate previously issued for the facility or an earlier material modification thereof, obtain a siting certificate for the modification from the commission pursuant to the provisions of section eleven-c of this article in lieu of a certificate of public convenience and necessity for the modification pursuant to the provisions of section eleven of this article and, except for the provisions of section eleven-c of this article, shall not otherwise be
subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such modification.

(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to section eleven of this article to construct an electric generating facility described in this subsection or to make or construct a material modification of such electric generating facility as an application for a siting certificate pursuant to section eleven-c of this article if the application for the certificate of public convenience and necessity was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order thereon as of that date.

(7) The limitations on the jurisdiction of the commission over, and on the applicability of the provisions of this chapter to, the owner or operator of an electric generating facility as imposed by and described in this subsection shall not be deemed to affect or limit the commission’s jurisdiction over contracts or arrangements between the owner or operator of such facility and any affiliated public utility subject to the provisions of this chapter.*

(e) The commission shall not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection:

(2) “Voice-over Internet protocol service” means any service that:

(i) Enables real-time two-way voice communications that originate or terminate from the user’s location using Internet protocol or a successor protocol; and

(ii) Uses a broadband connection from the user’s location.

(3) The term “voice-over Internet protocol service” includes any service that permits users to receive calls that
originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.

(f) Notwithstanding any other provisions of this article, the commission shall not have jurisdiction to review or approve any transaction involving a telephone company otherwise subject to sections twelve and twelve-a, article two, chapter twenty-four of this code if all entities involved in the transaction are under common ownership.

§24-2-3. General power of commission with respect to rates.

(a) The commission shall have power to enforce, originate, establish, change and promulgate tariffs, rates, joint rates, tolls and schedules for all public utilities except for water and/or sewer utilities that are political subdivisions of this state providing a separate or combined services and having at least four thousand five hundred customers and annual combined gross revenues of $3 million or more: Provided, That the commission may exercise such rate authority over municipally owned electric or natural gas utilities or a municipally owned water and/or sewer utility having less than four thousand five hundred customers or annual combined gross revenues of less than $3 million dollars, only under the circumstances and limitations set forth in section four-b of this article, and subject to the provisions set forth in subsection (b) of this section. And whenever the commission shall, after hearing, find any existing rates, tolls, tariffs, joint rates or schedules enacted or maintained by a utility regulated under the provisions of this section to be unjust, unreasonable, insufficient or unjustly discriminatory or otherwise in violation of any of the provisions of this chapter, the commission shall by an order fix reasonable rates, joint rates, tolls, tariffs, joint rates or schedules to be followed in the future in lieu of those found to be unjust, unreasonable, insufficient or unjustly discriminatory or otherwise in violation of any provisions of law, and the said commission, in fixing the rate of any railroad company, may fix a fair, reasonable and just rate to be charged on any branch line thereof,
independent of the rate charged on the main line of such railroad.

(b) Any complaint filed with the commission by a resale or wholesale customer of a municipally owned water and/or sewer utility having less than four thousand five hundred customers or annual combined gross revenue of less than $3 million dollars concerning rates, fees or charges applicable to such resale or wholesale customer, shall be filed within thirty days of the enactment by the governing body of the political subdivision of an ordinance changing rates, fees or charges for such service. The commission shall resolve said complaint within 120 days of filing. The one hundred-twenty day period for resolution of the complaint may be tolled by the commission until the necessary information showing the basis of the rates, fees, charges and other information as the commission considers necessary is filed: 

Provided, That rates, fees and charges so fixed by the political subdivision providing separate or combined water and/or sewer services shall remain in full force and effect until set aside, altered or amended by the commission in an order to be followed in the future: Provided, however, That the commission shall have no authority to order refunds for amounts collected during the pendency of the complaint proceeding unless the rates, fees, or charges so enacted by the governing body were enacted subject to refund under the provisions of subsections (d)(2) or (g) of section four-b of this article.

(c) In determining just and reasonable rates, the commission may audit and investigate management practices and policies, or have performed an audit and investigation of such practices and policies, in order to determine whether the utility is operating with efficiency and is utilizing sound management practices. The commission shall adopt rules and regulations setting forth the scope, frequency and application of such audits and investigations to the various utilities subject to its jurisdiction. The commission may include the cost of
conducting the management audit in the cost of service of the utility.

(d) In determining just and reasonable rates, the commission shall investigate and review transactions between utilities and affiliates. The commission shall limit the total return of the utility to a level which, when considered with the level of profit or return the affiliate earns on transactions with the utility, is just and reasonable.

§24-2-4b. Procedures for changing rates of electric and natural gas cooperatives, local exchange services of telephone cooperatives and municipally operated public utilities.

(a) The rates and charges of electric cooperatives, natural gas cooperatives and municipal water and/or sewer utilities that are political subdivisions of the state having less than four thousand five hundred customers or annual combined gross revenues of less than $3 million dollars, except for municipally operated commercial solid waste facilities as defined in section two, article fifteen, chapter twenty-two of this code, and the rates and charges for local exchange services provided by telephone cooperatives are not subject to the rate approval provisions of section four or four-a of this article, but are subject to the limited rate provisions of this section.

(b) All rates and charges set by electric cooperatives, natural gas cooperatives and municipally operated public utilities that are political subdivisions of the state providing water, sewer, electric and/or natural gas services that are subject to the provisions of this section and all rates and charges for local exchange services set by telephone cooperatives shall be just, reasonable, applied without unjust discrimination between or preference for any customer or class of customer and based primarily on the costs of providing these services. All rates and charges shall be based upon the measured or reasonably estimated cost of service and the equitable sharing of those costs between
customers based upon the cost of providing the service received by the customer, including a reasonable plant-in-service depreciation expense. The rates and charges shall be adopted by the electric, natural gas, telephone cooperative or political subdivision’s governing board or body and, in the case of the municipally operated public utility, by municipal ordinance to be effective not sooner than forty-five days after adoption. The 45-day waiting period may be waived by public vote of the governing body if that body finds and declares the public utility that is a political subdivision of the state to be in financial distress such that the 45-day waiting period would be detrimental to the ability of the utility to deliver continued and compliant public services: Provided, That notice of intent to effect a rate change shall be specified on the monthly billing statement of the customers of the utility for the month next preceding the month in which the rate change is to become effective and the utility governing body shall give its customers and, in the case of a cooperative, its customers, members and stockholders, other reasonable notices as will allow filing of timely objections to the proposed rate change and full participation in municipal rate legislation through the provision of a public forum in which customers may comment upon the proposed rate change prior to an enactment vote. The rates and charges or ordinance shall be filed with the commission, together with any information showing the basis of the rates and charges and other information as the commission considers necessary. Any change in the rates and charges with updated information shall be filed with the commission. If a petition, as set out in subdivision (1), (2) or (3), subsection (c) of this section, is received and the electric cooperative, natural gas cooperative or telephone cooperative or municipality has failed to file with the commission the rates and charges with information showing the basis of rates and charges and other information as the commission considers necessary, the suspension period limitation of one hundred twenty days and the one hundred-day period limitation for issuance of an order by a hearing examiner, as contained in subsections (d)
and (e) of this section, is tolled until the necessary
information is filed. The electric cooperative, natural gas
cooperative, telephone cooperative or municipality shall set
the date when any new rate or charge is to go into effect.

(c) The commission shall review and approve or modify
the rates and charges of electric cooperatives, natural gas
cooperatives, telephone cooperatives, or municipal electric
or natural gas utilities and municipally owned water and/or
sewer utilities that are political subdivisions of the state and
having less than four thousand five hundred customers or
annual combined revenues of less than $3 million dollars
upon the filing of a petition within thirty days of the
adoption of the ordinance or resolution changing the rates
or charges by:

(1) Any customer aggrieved by the changed rates or
charges who presents to the commission a petition signed
by not less than twenty-five percent of the customers served
by the municipally operated electric or natural gas public
utility or municipally owned water and/or sewer utility or
twenty-five percent of the membership of the electric,
natural gas or telephone cooperative residing within the
state;

(2) Any customer who is served by a municipally owned
electric or natural gas public utility and who resides outside
the corporate limits and who is affected by the change in the
rates or charges and who presents to the commission a
petition alleging discrimination between customers within
and without the municipal boundaries. The petition shall be
accompanied by evidence of discrimination; or

(3) Any customer or group of customers of the
municipally owned electric or natural gas public utility who
is affected by the change in rates who reside within the
municipal boundaries and who present a petition to the
commission alleging discrimination between a customer or
group of customers and other customers of the municipal
utility. The petition shall be accompanied by evidence of discrimination.

(d) (1) The filing of a petition with the commission signed by not less than twenty-five percent of the customers served by the municipally owned electric or natural gas public utility or a municipally owned water and/or sewer utility having less than four thousand five hundred customers or annual combined gross revenues of less than $3 million dollars or twenty-five percent of the membership of the electric, natural gas or telephone cooperative residing within the state under subsection (c) of this section shall suspend the adoption of the rate change contained in the ordinance or resolution for a period of one hundred twenty days from the date the rates or charges would otherwise go into effect or until an order is issued as provided herein.

(2) Upon sufficient showing of discrimination by customers outside the municipal boundaries or a customer or a group of customers within the municipal boundaries under a petition filed under subdivision (2) or (3), subsection (c) of this section, the commission shall suspend the adoption of the rate change contained in the ordinance for a period of one hundred twenty days from the date the rates or charges would otherwise go into effect or until an order is issued as provided herein. A municipal rate ordinance enacted pursuant to the provisions of this section and municipal charter or state code that establishes or proposes a rate increase that results in an increase of less than twenty-five percent of the gross revenue of the utility shall be presumed valid and rates shall be allowed to go into effect, subject to refund, upon the date stated in that ordinance. Any refund determined to be due and owing as a result of any difference between any final rates approved by the commission and the rates placed into effect subject to refund shall be refunded as a credit against each customer’s account for a period of up to six months after entry of the commission’s final order. Any remaining balance which is not fully credited by credit within six months after entry of
the commission’s final order shall be directly refunded to
the customer by check. In the case of rates established or
proposed that increase by more than twenty-five percent of
the gross revenue of the municipally operated public utility,
the utility may apply for, and the commission may grant, a
waiver of the suspension period and allow rates to be
effective upon enactment.

(e) The commission shall forthwith appoint a hearing
examiner from its staff to review the grievances raised by
the petitioners. The hearing examiner shall conduct a public
hearing and shall, within one hundred days from the date the
rates or charges would otherwise go into effect, unless
otherwise tolled as provided in subsection (b) of this
section, issue an order approving, disapproving or
modifying, in whole or in part, the rates or charges imposed
by the electric, natural gas or telephone cooperative or by
the municipally operated public utility pursuant to this
section.

(f) Upon receipt of a petition for review of the rates
under the provisions of subsection (c) of this section, the
commission may exercise the power granted to it under the
provisions of section three of this article, consistent with the
applicable rate provisions of section twenty, article ten,
chapter eight of this code, section four, article nineteen of
said chapter and section sixteen, article thirteen, chapter
sixteen of this code. The commission may determine the
method by which the rates are reviewed and may grant and
conduct a de novo hearing on the matter if the customer,
electric, natural gas or telephone cooperative or
municipality requests a hearing.

(g) The commission may, upon petition by an electric,
natural gas or telephone cooperative or municipal electric or
natural gas public utility or a municipally owned water
and/or sewer utility having less than four thousand five
hundred customers or annual combined gross revenues of
less than $3 million dollars, allow an interim or emergency
rate to take effect, subject to refund or future modification,
if it is determined that the interim or emergency rate is necessary to protect the municipality from financial hardship attributable to the purchase of the utility commodity sold, or the commission determines that a temporary or interim rate increase is necessary for the utility to avoid financial distress. In such cases, the commission shall waive the 45-day waiting period provided for in subsection (b) of this section and the one hundred twenty-day suspension period provided for in subsection (d) of this section.

(h) The commission shall, upon written request of the governing body of a political subdivision, provide technical assistance to the governing body in its deliberations regarding a proposed rate increase.

(i) Notwithstanding any other provision, the commission has no authority or responsibility with regard to the regulation of rates, income, services or contracts by municipally operated public utilities for services which are transmitted and sold outside of the State of West Virginia.

(j) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the commission over water and/or sewer utilities that are political subdivisions of the state and having at least four thousand five hundred customers and annual gross combined revenues of $3 million or more shall be limited to those powers enumerated in subsection (b), section one of this article.

§24-2-11. Requirements for certificate of public convenience and necessity.

(a) A public utility, person or corporation other than a political subdivision of the state providing water or sewer services and having at least four thousand five hundred customers and annual gross combined revenues of $3 million dollars or more may not begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in section one,
article two of this chapter, nor apply for, nor obtain any
franchise, license or permit from any municipality or other
governmental agency, except ordinary extensions of
existing systems in the usual course of business, unless and
until it shall obtain from the Public Service Commission a
certificate of public convenience and necessity authorizing
such construction franchise, license or permit.

(b) Upon the filing of any application for the certificate,
and after hearing, the commission may, in its discretion,
issue or refuse to issue, or issue in part and refuse in part,
the certificate of convenience and necessity: Provided, That
the commission, after it gives proper notice and if no
substantial protest is received within thirty days after the
notice is given, may waive formal hearing on the
application. Notice shall be given by publication which shall
state that a formal hearing may be waived in the absence of
substantial protest, made within thirty days, to the
application. The notice shall be published as a Class I legal
advertisement in compliance with the provisions of article
three, chapter fifty-nine of this code. The publication area
shall be the proposed area of operation.

(c) Any public utility, person or corporation subject to
the provisions of this section other than a political
subdivision of the state providing water and/or sewer
services having at least four thousand five hundred
customers and combined annual gross revenue of $3 million
dollars or more shall give the commission at least thirty
days’ notice of the filing of any application for a certificate
of public convenience and necessity under this section:
Provided, That the commission may modify or waive the
thirty-day notice requirement and shall waive the thirty-day
notice requirement for projects approved by the
Infrastructure and Jobs Development Council.

(d) The commission shall render its final decision on
any application filed under the provisions of this section or
section eleven-a of this article within two hundred seventy
days of the filing of the application and within ninety days
after final submission of any such application for decision following a hearing: Provided, That if the application is for authority to construct a water and sewer project and the projected total cost is less than $10 million, the commission shall render its final decision within two hundred twenty-five days of the filing of the application.

(e) The commission shall render its final decision on any application filed under the provisions of this section that has received the approval of the Infrastructure and Jobs Development Council pursuant to article fifteen-a, chapter thirty-one of this code within one hundred eighty days after filing of the application: Provided, That if a substantial protest is received within thirty days after the notice is provided pursuant to subsection (b) of this section, the commission shall render its final decision within two hundred seventy days or two hundred twenty-five days of the filing of the application, whichever is applicable as determined in subsection (d) of this section.

(f) If the projected total cost of a project which is the subject of an application filed pursuant to this section or section eleven-a of this article is greater than $50 million, the commission shall render its final decision on any such application filed under the provisions of this section or section eleven-a of this article within four hundred days of the filing of the application and within ninety days after final submission of any such application for decision after a hearing.

(g) If a decision is not rendered within the time frames established in this section, the commission shall issue a certificate of convenience and necessity as applied for in the application.

(h) The commission shall prescribe rules as it may deem proper for the enforcement of the provisions of this section; and, in establishing that public convenience and necessity do exist, the burden of proof shall be upon the applicant.
(i) Pursuant to the requirements of this section, the commission may issue a certificate of public convenience and necessity to any intrastate pipeline, interstate pipeline or local distribution company for the transportation in intrastate commerce of natural gas used by any person for one or more uses, as defined by rule, by the commission in the case of:

(1) Natural gas sold by a producer, pipeline or other seller to the person; or

(2) Natural gas produced by the person.

(j) A public utility, including a public service district, which has received a certificate of public convenience and necessity after July 8, 2005, from the commission and has been approved by the Infrastructure and Jobs Development Council is not required to, and cannot be compelled to, reopen the proceeding if the cost of the project changes but the change does not affect the rates established for the project.

(k) Any public utility, person or corporation proposing any electric power project that requires a certificate under this section is not required to obtain such certificate before applying for or obtaining any franchise, license or permit from any municipality or other governmental agency.

(l) Water or sewer utilities that are political subdivisions of the state and having at least four thousand five hundred customers and combined gross revenues of $3 million dollars or more desiring to pursue construction projects that are not in the ordinary course of business shall provide adequate prior public notice of the contemplated construction and proposed changes to rates, fees and charges, if any, as a result of such construction to both current customers and those persons who will be affected by the proposed construction as follows:
(1) Adequate prior public notice of the contemplated construction by causing a notice of intent to pursue a project that is not in the ordinary course of business to be specified on the monthly billing statement of the customers of the utility for the month immediately preceding the month in which an ordinance or resolution approving the proposed construction and proposed changes to rates, fees and charges, if any, is to be before the governing body for the public hearing on the ordinance or resolution approving the proposed construction and proposed changes to rates, fees and charges, if any.

(2) Adequate prior public notice of the contemplated construction by causing to be published as a Class I legal advertisement of the proposed public hearing on the ordinance or resolution approving the proposed construction and proposed changes to rates, fees and charges, if any, in compliance with the provisions of article three, chapter fifty-nine of the code. The publication area for publication shall be all territory served by the political subdivision. If the political subdivision provides service in more than one county, publication shall be made in a newspaper of general circulation in each county that the political subdivision provides service.

(3) The public notice of the proposed construction shall state the scope of the proposed construction; a summary of the current rates, fees and charges, and proposed changes to said rates, fees and charges, if any; the date, time and place of the public hearing on the ordinance or resolution approving the proposed construction and proposed changes to rates, fees and charges, if any; and the place or places within the political subdivision where the ordinance or resolution approving the proposed construction and proposed changes to rates, fees and charges, if any, may be inspected by the public. A reasonable number of copies of the ordinance or resolution shall be kept at the place or places and be made available for public inspection. The notice shall also advise that interested parties may appear at
the public hearing before the political subdivision and be
heard with respect to the proposed construction and the
proposed rates, fees and charges, if any.

(4) The ordinance or resolution on the proposed
construction and the proposed rates, fees and charges shall
be read at two meetings of the governing body with at least
two weeks intervening between each meeting. The public
hearing may be conducted prior to, or at, the meeting of the
governing body at which the ordinance or resolution
approving the proposed construction is considered on
second reading.

(5) Enactment or adoption of the ordinance or resolution
approving the proposed construction and the proposed rates,
fees and charges shall follow an affirmative vote of the
governing body and the approved rates shall go into effect
no sooner than forty-five days following the action of the
governing body. If the political subdivision proposes rates
that will go into effect prior to the completion of
construction of the proposed project, the 45-day waiting
period may be waived by public vote of the governing body
only if the political subdivision finds and declares the
political subdivision to be in financial distress such that the
45-day waiting period would be detrimental to the ability of
the political subdivision to deliver continued and compliant
public services: Provided, That, if the political subdivision
is a public service district, in no event shall the rate become
effective prior to the date that the county commission has
entered an order approving or modifying the action of the
public service district board.

(6) Rates, fees and charges approved by an affirmative
vote of the public service district board shall be forwarded
in writing to the county commission with the authority to
appoint the members of the public service board of the
public service district. The county commission shall, within
forty-five days of receipt of the proposed rates, fees and
charges, take action to approve, modify, or reject the
proposed rates, fees and charges, in its sole discretion. If,
after forty-five days, the county commission has not taken final action to approve, modify, or reject the proposed rates, fees and charges, the proposed rates, fees and charges, as presented to the County Commission, shall be effective with no further action by the board or county commission. In any event this 45-day period may be extended by official action of both the board proposing the rates, fees and charges and the appointing county commission.

(7) The county commission shall provide notice to the public by a Class I legal advertisement of the proposed action, in compliance with the provisions of article three, chapter fifty-nine of this code, of the meeting where it shall consider the proposed increases in rates, fees and charges no later than one week prior to the meeting date.

(8) A public service district, or a customer aggrieved by the changed rates or charges who presents to the circuit court a petition signed by at least 750 or twenty-five percent of the customers served by the public service district, whichever is fewer, when dissatisfied by the approval, modification, or rejection by the county commission of the proposed rates, fees and charges under the provisions of this subsection (l) may file a complaint regarding the rates, fees and charges resulting from the action of, or failure to act by, the county commission in the circuit court of the county in which the county commission sits: Provided, That any complaint or petition filed hereunder shall be filed within thirty days of the county commission’s final action approving, modifying or rejecting such rates, fees and charges, or the expiration of the 45 day period from the receipt by the county commission, in writing, of the rates, fees and charges approved by resolution of the board, without final action by the county commission to approve, modify or reject such rates, fees and charges, and the circuit court shall resolve said complaint: Provided, however, That the rates, fees and charges so fixed by the county commission, or those adopted by the district upon which the county commission failed to act, shall remain in full force
AN ACT to amend and reenact §31-18E-3 and §31-18E-9 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Land Reuse Agency Authorization Act; defining the term “municipal land bank”; including a municipal land bank as an agency that may acquire property; providing that a land reuse agency or a municipal land bank may have the right of first refusal to buy certain tax delinquent property for taxes owed and any related fees before the tax delinquent property is placed for public auction at tax sales; providing procedures for when a land reuse agency or municipal land bank exercises a first right of refusal to purchase tax-delinquent property; requiring county sheriffs to compile a list of properties meeting certain criteria; granting owners of adjacent real property a right to purchase a tax delinquent property from a land reuse agency or municipal land bank, within 120 days of receiving notice, for an amount equal to the amount paid for the property by the land reuse agency or municipal land bank; providing a three year sunset provision; and authorizing reporting to the Legislature.

Be it enacted by the Legislature of West Virginia:

That §31-18E-3 and §31-18E-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:
ARTICLE 18E. WEST VIRGINIA LAND REUSE AGENCY AUTHORIZATION ACT.


As used in this article:

1. “Board” means the board of directors of a land reuse agency;

2. “Deconstruct” means to attempt to remove salvageable pieces of a housing unit prior to or as part of demolition or renovation;

3. “Financial institution” means a bank, savings association, operating subsidiary of a bank or savings association, credit union, association licensed to originate mortgage loans or an assignee of a mortgage or note originated by such an institution;

4. “Land reuse agency” means a public body established under this article;

5. “Land reuse jurisdiction” means: (A) A county or municipality in this state; or (B) two or more municipalities or counties that enter into an intergovernmental cooperation agreement to establish and maintain a land reuse agency;

6. “Municipal land bank” means a department or agency of a municipality, or an entity lawfully created by a municipality, engaged in activities designed to address issues related to vacant, abandoned and tax-delinquent real property, including but not limited to, the purchase, rehabilitation, improvement or sale of such properties for the purpose of eliminating blight and returning those properties to productive use.

7. “Municipality” means a municipality as defined in section two, article one, chapter eight of this code; and

8. “Real property” means all lands, including improvements and fixtures on them and property of any
nature appurtenant to them or used in connection with them and every estate, interest and right, legal or equitable, in them, including terms of years and liens by way of judgment, mortgage or otherwise, and indebtedness secured by the liens.

§31-18E-9. Acquisition of property.

(a) Title to be held in its name. – A land reuse agency or municipal land bank shall hold in its own name all real property it acquires.

(b) Tax exemption. – (1) Except as set forth in subdivision (2) of this subsection, the real property of a land reuse agency or municipal land bank and its income and operations are exempt from property tax.

(2) Subdivision (1) of this subsection does not apply to real property of a land reuse agency or municipal land bank after the fifth consecutive year in which the real property is continuously leased to a private third party. However, real property continues to be exempt from property taxes if it is leased to a nonprofit or governmental agency at substantially less than fair market value.

(c) Methods of acquisition. – A land reuse agency or municipal land bank may acquire real property or interests in real property by any means on terms and conditions and in a manner the land reuse agency considers proper: Provided, That a land reuse agency or municipal land bank may not acquire any interest in oil, gas or minerals which have been severed from the realty.

(d) Acquisitions from municipalities or counties. – (1) A land reuse agency or municipal land bank may acquire real property by purchase contracts, lease purchase agreements, installment sales contracts and land contracts and may accept transfers from municipalities or counties upon terms and conditions as agreed to by the land reuse agency or municipal land bank and the municipality or county.
(2) A municipality or county may transfer to a land
reuse agency or municipal land bank real property and
interests in real property of the municipality or county on
terms and conditions and according to procedures
determined by the municipality or county as long as the real
property is located within the jurisdiction of the land reuse
agency or municipal land bank.

(3) An urban renewal authority, as defined in section four,
article eighteen, chapter sixteen of this code, located within a
land reuse jurisdiction established under this article may, with
the consent of the local governing body and without a
redevelopment contract, convey property to the land reuse
agency. A conveyance under this subdivision shall be with fee
simple title, free of all liens and encumbrances.

(e) Maintenance. – A land reuse agency or municipal
land bank shall maintain all of its real property in
accordance with the statutes and ordinances of the
jurisdiction in which the real property is located.

(f) Prohibition. – (1) Subject to the provisions of
subdivision (2) of this subsection, a land reuse agency or
municipal land bank may not own or hold real property
located outside the jurisdictional boundaries of the entities
which created the land reuse agency under subsection (c),
section four of this article.

(2) A land reuse agency or municipal land bank may be
granted authority pursuant to an intergovernmental
cooperation agreement with a municipality or county to
manage and maintain real property located within the
jurisdiction of the municipality or county.

(g) Acquisition of tax delinquent properties. – (1)
Notwithstanding any other provision of this code to the
contrary, if authorized by the land reuse jurisdiction which
created a land reuse agency or municipal land bank or
otherwise by intergovernmental cooperation agreement, a land
reuse agency or municipal land bank may acquire an interest
in tax delinquent property through the provisions of chapter
eleven-a of this code. Notwithstanding the provisions of
section eight, article three, chapter eleven-a of this code, if no
person present at the tax sale bids the amount of the taxes,
interest and charges due on any unredeemed tract or lot or
undivided interest in real estate offered for sale, the sheriff
shall, prior to certifying the real estate to the Auditor for
disposition pursuant to section forty-four, article three, chapter
eleven-a of this code, provide a list of all of said real estate
within a land reuse or municipal land bank jurisdiction to the
land reuse agency or municipal land bank and the land reuse
agency or municipal land bank shall be given an opportunity
to purchase the tax lien and pay the taxes, interest and charges
due for any unredeemed tract or lot or undivided interest
therein as if the land reuse agency or municipal land bank were
an individual who purchased the tax lien at the tax sale.

(2) Notwithstanding any other provision of this code to
the contrary, if authorized by the land reuse jurisdiction
which created a land reuse agency or municipal land bank
or otherwise by intergovernmental cooperation agreement,
the land reuse agency or municipal land bank shall have the
right of first refusal to purchase any tax-delinquent property
which is within municipal limits, and has an assessed value
of $25,000 or less or has been condemned: Provided, That
the land reuse agency or municipal land bank satisfies the
requirements of subdivision (3) of this subsection. A list of
properties which meet the criteria of this subdivision shall
regularly be compiled by the sheriff of the county, and a
land reuse agency or municipal land bank may purchase any
qualifying tax-delinquent property for an amount equal to
the taxes owed and any related fees before such property is
placed for public auction.

(3) When a land reuse agency or municipal land bank
exercises a right of first refusal in accordance with subdivision
(2) of this section, the land reuse agency or municipal land
bank shall, within fifteen days, provide written notice to all
owners of real property that is adjacent to the tax-delinquent
property. Any such property owner shall have a period of 120
days from the receipt of notice, actual or constructive, to
exercise a right to purchase the tax-delinquent property from
the land reuse agency or municipal land bank for an amount
equal to the amount paid for the property by the land reuse
agency or municipal land bank: Provided, That in the event
more than one adjacent land owner desires to purchase the tax-
delinquent property, it shall be sold to the adjacent property
owner offering the highest bid. It is the duty of the adjacent
property owner to establish that he or she is the actual owner
of property that is adjacent to the tax-delinquent property and
all state and local taxes and all fees on his or her adjacent
property are current and non-delinquent.

(4) Effective July 1, 2020, the provisions of
subdivisions (2) and (3) of this subsection shall sunset and
have no further force and effect.

(5) Prior to January 1, 2020, any land reuse agency or
municipal land bank which exercises the authority granted by
this subsection may submit to the Joint Committee on
Government and Finance a report on the entity’s activities
related to the purchase of tax-delinquent properties and any
benefits realized from the authority granted by this subsection.

CHAPTER 163

(Com. Sub. for H. B. 2679 - By Delegates Summers,
Frich, Overington, Paynter, Harshbarger, Moore,
Dean, G. Foster, Higginbotham, Butler and Fast)

[Passed April 8, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 26, 2017.]
to amend and reenact §20-2-5, §20-2-42g and §20-2-42h, all relating to firearms and hunting generally; eliminating authority for trappers to carry certain firearms on Sundays while checking traps; prohibiting county parks and recreation commissions from promulgating or enforcing rules which prohibit possession of firearms in parks; updating antiquated language; allowing the carrying of an uncased or loaded long firearm in the woods of this state and state parks, state forests, state wildlife management areas or state rail trails; excepting recreation facilities therein from areas where uncased or loaded long guns may be possessed; providing exceptions to the prohibition for self-defense purposes; eliminating local option election regarding to hunting on private land on Sundays; permitting Sunday hunting on private land with written permission of the owner or an authorized agent of the owner; clarifying that hunting on public land on Sundays after five o’clock ante meridian is illegal; superseding ballot measures in elections prior to the effective date of legislation making Sunday hunting on private land lawful with the written permission of the landowner or an authorized agent thereof; creating the misdemeanor offense of catching, taking, or killing of fish within two hundred feet of Division of Natural Resources personnel engaged in stocking fish in public waters; and establishing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That §20-2-19a of the Code of West Virginia, 1931, as amended, be repealed; that §7-11-15 of said code be amended and reenacted; and that §20-2-5, §20-2-42g and §20-2-42h of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 11. COUNTY PARKS AND RECREATION COMMISSIONS.

§7-11-5. General powers of commission; rules; misdemeanor offenses; park police authorized.
The commission shall have the necessary powers and authority to manage and control all public parks and recreational properties and facilities owned by the county or commission and used as a part of such public parks and recreation system, including the right to promulgate rules and regulations concerning the management and control of such parks and recreational properties and facilities and to enforce any such rules and regulations so promulgated: Provided, That a commission shall not promulgate or enforce rules which prohibit the possession of firearms in such parks.

The commission shall also have plenary power and authority to prepare and submit to the county commission for adoption rules regulating the use of any parks and recreational properties and facilities under the control of the commission and prohibiting any type of use of or activities in connection with any such properties or facilities, and any such rules, and regulations if so adopted, shall be duly entered of record in the order book of the county commission. The violation of any such rule and regulation so adopted by the county commission shall constitute a misdemeanor and, any person convicted of any such violation shall be punished by a fine of not less than $5 nor more than $100, or by imprisonment in jail for a period not exceeding thirty days, or by both such fine and imprisonment. The magistrate court of the county shall have concurrent jurisdiction with the circuit court and other courts of record (having criminal jurisdiction) of any misdemeanor offenses arising under this article. The violation of any such rule which also constitutes the violation of any state law or municipal ordinance may be prosecuted and punished as a violation of such state law or municipal ordinance rather than under the provisions of this section. To enforce any such rules and regulations, to protect and preserve all properties and facilities under the control of the commission and to preserve law and order in connection therewith, the commission shall have plenary power and authority to provide in its bylaws procedures for
the appointment, supervision and discharge of one or more
park police officers. Whenever any such appointment is
made, a copy of the order of appointment shall be
maintained by the commission for review by members of
the public.

In any area under the jurisdiction and control of the
commission, or in connection with any properties or
facilities under the jurisdiction and control of the
commission, or in pursuit of one or more individuals
therefrom, any park police officer so appointed shall have
all of the power and authority which a regularly appointed
deputy sheriff of such county has in enforcing the criminal
laws of the state. Notwithstanding any provisions of this
code to the contrary, park police officers appointed as
aforesaid shall not be required to obtain a state license to
carry a weapon, as required by the provisions of section two,
article seven, chapter sixty-one of this code. When any such
commission has purchased one or more policies of public
liability insurance providing the commission and its
officers, agents and employees insurance coverage for legal
liability of said commission and its officers, agents and
employees for bodily injury, personal injury or damage
(including, but not limited to, false arrest and false
imprisonment) and property damage, and affording said
commission and its officers, agents and employees
insurance coverage against any and all legal liability arising
from, growing out of, by reason of or in any way connected
with, any acts or omissions of said commission, or its
officers, agents or employees in the performance of their
official duties, and so long as the coverage aforesaid
remains in full force and effect as to such park police
officers, then the bond specified in section five, article seven
of said chapter sixty-one shall not be required as to such
park police officers.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.
§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts; Sunday hunting.

(a) Except as authorized by the director or by law, it is unlawful at any time for any person to:

(1) Shoot at any wild bird or wild animal unless it is plainly visible;

(2) Dig out, cut out, smoke out, or in any manner take or attempt to take any live wild animal or wild bird out of its den or place of refuge;

(3) Use or attempt to use any artificial light or any night vision technology, including image intensification, thermal imaging or active illumination while hunting, locating, attracting, taking, trapping or killing any wild bird or wild animal: Provided, That it is lawful to hunt or take coyote, fox, raccoon, opossum or skunk by the use of artificial light or night vision technology. Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not less than $100 nor more than $500, and shall be confined in jail for not less than ten days nor more than one hundred days;

(4) Hunt, take, kill, wound or shoot at wild animals or wild birds from an airplane or other airborne conveyance, a drone or other unmanned aircraft, an automobile or other land conveyance, or from a motor-driven water conveyance;

(5) Use a drone or other unmanned aircraft to hunt, take or kill a wild bird or wild animal, or to use a drone or other unmanned aircraft to drive or herd any wild bird or wild animal for the purposes of hunting, trapping or killing;

(6) Take any beaver or muskrat by any means other than a trap;

*NOTE: This section was also amended by S. B. 345 (Chapter 166), which passed prior to this act.
(7) Catch, capture, take, hunt or kill by seine, net, bait, trap or snare or like device a bear, wild turkey, ruffed grouse, pheasant or quail;

(8) Intentionally destroy or attempt to destroy the nest or eggs of any wild bird or have in his or her possession the nest or eggs;

(9) Carry an uncased or loaded firearm in the woods of this state or in state parks, state forests, state wildlife management areas or state rail trails with the following permissible exceptions:

(A) A person in possession of a valid license or permit during open firearms hunting season for wild animals and nonmigratory wild birds where hunting is lawful;

(B) A person hunting or taking unprotected species of wild animals, wild birds and migratory wild birds during the open season, in the open fields, open water and open marshes of the state where hunting is lawful;

(C) A person carrying a firearm pursuant to sections six and six-a of this article;

(D) A person carrying a handgun for self-defense who is not prohibited from possessing firearms under state or federal law; or

(E) A person carrying a rifle or shotgun for self-defense who is not prohibited from possessing firearms under state or federal law: Provided, That this exception does not apply to an uncased rifle or shotgun carried in state park, state forest, or state wildlife management area recreational facilities and on marked trails within state park or state forest borders.

(10) Have in his or her possession a crossbow with a nocked bolt, or a rifle or shotgun with cartridges that have not been removed or a magazine that has not been detached, in or on any vehicle or conveyance, or its
attachments. For the purposes of this section, a rifle or shotgun whose magazine readily detaches is considered unloaded if the magazine is detached and no cartridges remain in the rifle or shotgun itself. Except that between five o’clock post meridian of day one and seven o’clock ante meridian, Eastern Standard Time, of the following day, any unloaded firearm or crossbow may be carried only when in a case or taken apart and securely wrapped. During the period from July 1 to September 30, inclusive, of each year, the requirements relative to carrying unloaded firearms are permissible only from eight-thirty o’clock post meridian to five o’clock ante meridian, Eastern Standard Time: Provided, That the time periods for carrying unloaded and uncased firearms are extended for one hour after the post meridian times and one hour before the ante meridian times established in this subdivision, if a person is transporting or transferring the firearms to or from a hunting site, campsite, home or other abode;

(11) Hunt, catch, take, kill, injure or pursue a wild animal or wild bird with the use of a ferret;

(12) Buy raw furs, pelts or skins of fur-bearing animals unless licensed to do so;

(13) Catch, take, kill or attempt to catch, take or kill any fish by any means other than by rod, line and hooks with natural or artificial lures: Provided, That snaring of any species of suckers, carp, fallfish and creek chubs is lawful;

(14) Employ, hire, induce or persuade, with money, things of value or by any means, any person to hunt, take, catch or kill any wild animal or wild bird except those species in which there is no closed season; or to fish for, catch, take or kill any fish, amphibian or aquatic life that is protected by rule, or the sale of which is otherwise prohibited;
(15) Hunt, catch, take, kill, capture, pursue, transport, possess or use any migratory game or nongame birds except as permitted by the Migratory Bird Treaty Act, 16 U. S. C. §703, et seq., and its regulations;

(16) Kill, take, catch, sell, transport or have in his or her possession, living or dead, any wild bird other than a game bird including the plumage, skin or body of any protected bird, irrespective of whether the bird was captured in or out of this state, except the English or European sparrow (Passer domesticus), starling (Sturnus vulgaris) and cowbird (Molothrus ater), which may be killed at any time;

(17) Use dynamite, explosives or any poison in any waters of the state for the purpose of killing or taking fish. Any person violating this subdivision is guilty of a felony and, upon conviction thereof, shall be fined not more than $500 or imprisoned for not less than six months nor more than three years, or both fined and imprisoned;

(18) Have a bow and gun, or have a gun and any arrow, in the fields or woods at the same time;

(19) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take or attempt to take any wildlife except as otherwise provided in sections five-g and forty-two-w of this article;

(20) Take or attempt to take turkey, bear, elk or deer with any arrow unless the arrow is equipped with a point having at least two sharp cutting edges measuring in excess of three fourths of an inch wide;

(21) Take or attempt to take any wildlife with an arrow having an explosive head or shaft, a poisoned arrow or an arrow which would affect wildlife by any chemical action;

(22) Shoot an arrow across any public highway;
(23) Permit any dog owned or under his or her control to chase, pursue or follow the tracks of any wild animal or wild bird, day or night, between May 1 and August 15: Provided, That dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or upon the grounds or lands of another person with his or her written permission, or on public lands at any time. Nonresidents may not train dogs in this state at any time except during the legal small game hunting season. A person training dogs may not have firearms or other implements in his or her possession during the closed season on wild animals and wild birds;

(24) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water race or wild hunt: Provided, That any person, group of persons, club or organization may hold a trial upon obtaining a permit pursuant to section fifty-six of this article. The person responsible for obtaining the permit shall prepare and keep an accurate record of the names and addresses of all persons participating in the trial and make the records readily available for inspection by any natural resources police officer upon request;

(25) Hunt, catch, take, kill or attempt to hunt, catch, take or kill any wild animal, wild bird or wild fowl except during open seasons;

(26) Hunt on public lands on Sunday after five o’clock ante meridian;

(27) Hunt or conduct hunts for a fee when the person is not physically present in the same location as the wildlife being hunted within West Virginia.

(28) Catch, take, kill, or attempt to catch, take or kill any fish by any means within two hundred feet of division personnel engaged in stocking fish in public waters.
(b) Notwithstanding any ballot measure relating to Sunday hunting, it is lawful to hunt throughout the State of West Virginia on private lands on Sundays after the hour of five o’clock ante meridian with the written consent of the private landowner pursuant to section seven, article two of this chapter.

§20-2-42g. Class H nonresident small game hunting license.

A Class H license is a nonresident small game hunting license and entitles the licensee to hunt small game in all counties of the State, except as prohibited by rules of the director or Natural Resources Commission and except when additional licenses, stamps or permits are required, for a period of six consecutive hunting days chosen by the licensee. The fee for the license is $25. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

§20-2-42h. Class J nonresident small game shooting preserve license.

A Class J license is a nonresident small game shooting preserve license and entitles the licensee to hunt small game on designated shooting preserves, except as prohibited by rules of the director or Natural Resources Commission and except when additional licenses, stamps or permits are required, for a period of six consecutive hunting days chosen by the licensee. The fee for the license is $10. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

*NOTE: This section was also amended by S. B. 345 (Chapter 166), which passed prior to this act.
AN ACT to amend and reenact §20-1-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-5-15 of said code, all relating to exempting Division of Natural Resources’ contracts for the replacement, repair or design of repairs to revenue-producing facilities and related infrastructure where protecting public safety or public enjoyment and use of the facilities from the Purchasing Division; and exempting intergovernmental cooperative agreements and operational contracts for Prickett’s Fort from review and approval requirements of the Purchasing Division.

Be it enacted by the Legislature of West Virginia:

That §20-1-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §20-5-15 of said code be amended and reenacted, all to read as follows:

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

§20-1-7. Additional powers, duties and services of director.

In addition to all other powers, duties and responsibilities granted and assigned to the director in this chapter and elsewhere by law, the director is hereby authorized and empowered to:

(1) With the advice of the commission, prepare and administer, through the various divisions created by this chapter, a long-range comprehensive program for the
(2) Sign and execute in the name of the state by the Division
of Natural Resources any contract or agreement with the federal
government or its departments or agencies, subdivisions of the
state, corporations, associations, partnerships or individuals:
Provided, That intergovernmental cooperative agreements and
agreements with nongovernmental organizations in furtherance
of providing a comprehensive program for the exploration,
conservation, development, protection, enjoyment and use of
the natural resources of the state are exempt from the provisions
of article three, chapter five-a of this code: Provided, however,
That repair and related construction contracts necessary to
protect public health or safety or to provide uninterrupted
enjoyment and public use of state parks, state forests, wildlife
management areas and state natural areas under the jurisdiction
of the Division of Natural Resources are exempt from the
provisions of article three, chapter five-a of this code. Nothing
in this section shall authorize the construction or replacement of
capital improvements without complying with the provisions of
article three, chapter five-a of this code.

(3) Conduct research in improved conservation methods
and disseminate information matters to the residents of the
state;

(4) Conduct a continuous study and investigation of the
habits of wildlife and, for purposes of control and
protection, to classify by regulation the various species into
such categories as may be established as necessary;

(5) Prescribe the locality in which the manner and
method by which the various species of wildlife may be
taken, or chased, unless otherwise specified by this chapter;

(6) Hold at least six meetings each year at such time and
at such points within the state, as in the discretion of the
Natural Resources Commission may appear to be necessary and proper for the purpose of giving interested persons in the various sections of the state an opportunity to be heard concerning open season for their respective areas, and report the results of the meetings to the Natural Resources Commission before such season and bag limits are fixed by it;

(7) Suspend open hunting season upon any or all wildlife in any or all counties of the state with the prior approval of the Governor in case of an emergency such as a drought, forest fire hazard or epizootic disease among wildlife. The suspension shall continue during the existence of the emergency and until rescinded by the director. Suspension, or reopening after such suspension, of open seasons may be made upon twenty-four hours’ notice by delivery of a copy of the order of suspension or reopening to the wire press agencies at the state capitol;

(8) Supervise the fiscal affairs and responsibilities of the division;

(9) Designate such localities as he or she shall determine to be necessary and desirable for the perpetuation of any species of wildlife;

(10) Enter private lands to make surveys or inspections for conservation purposes, to investigate for violations of provisions of this chapter, to serve and execute warrants and processes, to make arrests and to otherwise effectively enforce the provisions of this chapter;

(11) Acquire for the state in the name of the Division of Natural Resources by purchase, condemnation, lease or agreement, or accept or reject for the state, in the name of the Division of Natural Resources, gifts, donations, contributions, bequests or devises of money, security or property, both real and personal, and any interest in such property, including lands and waters, which he or she deems suitable for the following purposes:
(a) For state forests for the purpose of growing timber, demonstrating forestry, furnishing or protecting watersheds or providing public recreation;

(b) For state parks or recreation areas for the purpose of preserving scenic, aesthetic, scientific, cultural, archaeological or historical values or natural wonders, or providing public recreation;

(c) For public hunting, trapping or fishing grounds or waters for the purpose of providing areas in which the public may hunt, trap or fish, as permitted by the provisions of this chapter and the rules issued hereunder;

(d) For fish hatcheries, game farms, wildlife research areas and feeding stations;

(e) For the extension and consolidation of lands or waters suitable for the above purposes by exchange of other lands or waters under his or her supervision;

(f) For such other purposes as may be necessary to carry out the provisions of this chapter;

(12) Capture, propagate, transport, sell or exchange any species of wildlife as may be necessary to carry out the provisions of this chapter;

(13) Sell timber for not less than the value thereof, as appraised by a qualified appraiser appointed by the director, from all lands under the jurisdiction and control of the director, except those lands that are designated as state parks and those in the Kanawha State Forest. The appraisal shall be made within a reasonable time prior to any sale, reduced to writing, filed in the office of the director and shall be available for public inspection. The director must obtain the written permission of the Governor to sell timber when the appraised value is more than $5,000. The director shall receive sealed bids therefor, after notice by publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code.
and the publication area for such publication shall be each county in which the timber is located. The timber so advertised shall be sold at not less than the appraised value to the highest responsible bidder, who shall give bond for the proper performance of the sales contract as the director shall designate; but the director shall have the right to reject any and all bids and to readvertise for bids. If the foregoing provisions of this section have been complied with and no bid equal to or in excess of the appraised value of the timber is received, the director may, at any time, during a period of six months after the opening of the bids, sell the timber in such manner as he or she deems appropriate, but the sale price shall not be less than the appraised value of the timber advertised. No contract for sale of timber made pursuant to this section shall extend for a period of more than ten years. And all contracts heretofore entered into by the state for the sale of timber shall not be validated by this section if the same be otherwise invalid. The proceeds arising from the sale of the timber so sold shall be paid to the Treasurer of the State of West Virginia and shall be credited to the division and used exclusively for the purposes of this chapter: Provided, That nothing contained herein shall prohibit the sale of timber which otherwise would be removed from rights-of-way necessary for and strictly incidental to the extraction of minerals;

(14) Sell or lease, with the approval in writing of the Governor, coal, oil, gas, sand, gravel and any other minerals that may be found in the lands under the jurisdiction and control of the director, except those lands that are designated as state parks. The director, before making sale or lease thereof, shall receive sealed bids therefor, after notice by publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county in which such lands are located. The minerals so advertised shall be sold or leased to the highest responsible bidder, who shall give bond for the proper performance of the sales contract or lease as the director shall designate; but the
director shall have the right to reject any and all bids and to readvertise for bids. The proceeds arising from any such sale or lease shall be paid to the Treasurer of the State of West Virginia and shall be credited to the division and used exclusively for the purposes of this chapter;

(15) Exercise the powers granted by this chapter for the protection of forests and regulate fires and smoking in the woods or in their proximity at such times and in such localities as may be necessary to reduce the danger of forest fires;

(16) Cooperate with departments and agencies of state, local and federal governments in the conservation of natural resources and the beautification of the state;

(17) Report to the Governor each year all information relative to the operation and functions of the division and the director shall make such other reports and recommendations as may be required by the Governor, including an annual financial report covering all receipts and disbursements of the division for each fiscal year, and he or she shall deliver such report to the Governor on or before December 1, next after the end of the fiscal year so covered. A copy of such report shall be delivered to each house of the Legislature when convened in January next following;

(18) Keep a complete and accurate record of all proceedings, record and file all bonds and contracts taken or entered into and assume responsibility for the custody and preservation of all papers and documents pertaining to his or her office, except as otherwise provided by law;

(19) Offer and pay, in his or her discretion, rewards for information respecting the violation, or for the apprehension and conviction of any violators, of any of the provisions of this chapter;

(20) Require such reports as he or she may deem to be necessary from any person issued a license or permit under the provisions of this chapter, but no person shall be required to
disclose secret processes or confidential data of competitive significance;

(21) Purchase as provided by law all equipment necessary for the conduct of the division;

(22) Conduct and encourage research designed to further new and more extensive uses of the natural resources of this state and to publicize the findings of such research;

(23) Encourage and cooperate with other public and private organizations or groups in their efforts to publicize the attractions of the state;

(24) Accept and expend, without the necessity of appropriation by the Legislature, any gift or grant of money made to the division for any and all purposes specified in this chapter and he or she shall account for and report on all such receipts and expenditures to the Governor;

(25) Cooperate with the state historian and other appropriate state agencies in conducting research with reference to the establishment of state parks and monuments of historic, scenic and recreational value and to take such steps as may be necessary in establishing such monuments or parks as he or she deems advisable;

(26) Maintain in his or her office at all times, properly indexed by subject matter and also in chronological sequence, all rules made or issued under the authority of this chapter. Such records shall be available for public inspection on all business days during the business hours of working days;

(27) Delegate the powers and duties of his or her office, except the power to execute contracts not related to land and stream management, to appointees and employees of the division, who shall act under the direction and supervision of the director and for whose acts he or she shall be responsible;

(28) Conduct schools, institutions and other educational programs, apart from or in cooperation with other
governmental agencies, for instruction and training in all phases of the natural resources programs of the state;

(29) Authorize the payment of all or any part of the reasonable expenses incurred by an employee of the division in moving his or her household furniture and effects as a result of a reassignment of the employee: Provided, That no part of the moving expenses of any one such employee shall be paid more frequently than once in twelve months; and

(30) Promulgate rules, in accordance with the provisions of chapter twenty-nine-a of this code, to implement and make effective the powers and duties vested in him or her by the provisions of this chapter and take such other steps as may be necessary in his or her discretion for the proper and effective enforcement of the provisions of this chapter.

ARTICLE 5. PARKS AND RECREATION.

§20-5-15. Authority to enter into certain operational contracts; terms and conditions; necessity for legislative notice and public hearing before certain facilities are placed under contract.

(a) The director may enter into a contract with a person, firm, corporation, foundation or public agency for the operation of a commissary, restaurant, recreational facility or other establishment within the state parks and public recreational system, for a duration not to exceed ten years, but the contract may provide for an option to renew at the director’s discretion for an additional term or terms not to exceed ten years at the time of renewal: Provided, That an operational contract for the operation of Prickett’s Fort by the Prickett’s Fort Memorial Foundation, Inc., funded by an appropriation for the specific purpose of such operational contract is exempt from the provisions of article three, chapter five-a of this code. Prior to initiating of a contract for the operation of a state park lodge, cabin, campground, gift shop, golf facility, including pro shop operations, or ski facility, the director shall submit written notice of the specific location
subject to the contract to the Legislature by letter to the Senate President and the Speaker of the House of Delegates.

(b) Prior to initiating a contract for a previously state-operated state park lodge, cabin, campground, gift shop, golf facility, including pro shop operations, or ski facility, the director shall conduct a public hearing to be held at a reasonable time and place within the county in which the facility is located. Notice of the time, place and purpose of the public hearing shall be provided as a Class II legal advertisement in accordance with the provisions of section two, article three, chapter fifty-nine of this code which notice shall be given at least for the first publication twenty days in advance of said hearing.

(c) Any contract entered into by the director shall provide an obligation upon the part of the operator that he or she maintain a level of performance satisfactory to the director and shall further provide that any contract may be terminated by the director in the event he or she determines that the performance is unsatisfactory and has given the operator reasonable notice of the termination.

CHAPTER 165

(Com. Sub. for S. B. 473 - By Senators Maynard and Cline)

[Passed March 31, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 11, 2017.]

AN ACT to amend and reenact §20-2-4 and §20-2-11 of the Code of West Virginia, 1931, as amended, all relating to wildlife; permitting the collection, possession and sale of naturally shed deer antlers; and clarifying the sale, trade or barter of wildlife or parts thereof.
Be it enacted by the Legislature of West Virginia:

That §20-2-4 and §20-2-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-4. Possession of wildlife.

(a) Except for wildlife lawfully taken, killed or obtained, no person may have in his or her possession any wildlife, or parts thereof, during closed seasons. It is unlawful to possess any wildlife, or parts thereof, which have been illegally taken, killed or obtained. This does not include the possession of deer antlers that are naturally shed and collected by a person from his or her own land, from public lands unless prohibited by law, or from private lands with the written permission of the landowner in hand. Any wildlife illegally taken, killed or possessed shall be forfeited to the state and shall be counted toward the daily, seasonal, bag, creel and possession limit of the person in possession of, or responsible for, the illegal taking or killing of any wildlife. It is unlawful to take, obtain, purchase, possess or maintain in captivity any live wildlife, wild animals, wild birds, game or fur-bearing animals except as provided by this chapter or any rule promulgated thereunder.

(b) Wildlife lawfully taken outside of this state is subject to the same laws and rules as wildlife taken within this state.

(c) Migratory wild birds may be possessed only in accordance with the Migratory Bird Treaty Act, 16 U. S. C. §703, et seq., and its regulations.

(d) The restrictions in this section do not apply to the director or duly authorized agents, who may take or maintain in captivity any wildlife for the purpose of carrying out the provisions of this chapter.
(e) Wildlife, except protected birds, elk, spotted fawn and bear cubs, killed or mortally wounded as a result of being accidentally or inadvertently struck by a motor vehicle may be lawfully possessed if the possessor of the wildlife provides notice of the claim within twelve hours to a relevant law-enforcement agency and obtains a nonhunting game tag within twenty-four hours of possession. The director shall propose administrative policy which addresses the means, methods and administrative procedures for implementing the provisions of this section.

(f) Persons are required to electronically register deer, bear, turkey, wild boar, bobcat, beaver, otter and fisher in accordance with rules promulgated by the director. “Electronically register” means submission of all necessary and relevant information to the division, in the manner designated by rule governing the electronic registration of wildlife. The director may promulgate rules, pursuant to article three, chapter twenty-nine-a of this code, governing the electronic registration of wildlife: Provided, That the rules shall include a procedure for persons who are not required to obtain licenses or permits under section twenty-eight of this article to register wildlife using identification other than a social security number. The rules may use a system of a combination of the last four digits of the social security number, date of birth and last name of the person.

§20-2-11. Sale of wildlife; transportation of same.

(a) A person, except those legally licensed to operate private game preserves for the purpose of propagating game for commercial purposes and those legally licensed to propagate or sell fish, amphibians and other forms of aquatic life, may not purchase or offer to purchase, sell or offer to sell, trade or offer to trade, barter or offer to barter, expose for sale, trade or barter or have in his or her possession for the purpose of sale, trade or barter any
wildlife, or part thereof, which has been designated as game animals, fur-bearing animals, game birds, game fish or amphibians, or any of the song or insectivorous birds of the state, or any other species of wildlife which the director may designate, except for captive cervids regulated pursuant to the provisions of article two-h, chapter nineteen of this code. However, pelts of game or fur-bearing animals taken during the legal season may be sold, traded or bartered and live red and gray foxes and raccoon taken by legal methods during legal and established trapping seasons may be sold, traded or bartered within the state. In addition, the hide, head, antlers and feet of a legally killed deer, lawfully collected and possessed naturally shed deer antlers and the hide, head and skull of a legally killed black bear may be sold, traded or bartered.

(b) A person, including a common carrier, may not transport, carry or convey, or receive for such purposes, any wildlife, the sale, trade or bartering of which is prohibited, if such person knows or has reason to believe that such wildlife has been or is to be sold, traded or bartered in violation of this section.

(c) Each separate act of selling or exposing for sale, trading or exposing for trade or bartering or exposing for barter or having in possession for sale, trade, barter, transporting or carrying in violation of this section constitutes a separate misdemeanor offense. Notwithstanding this or any other section of this chapter, any game birds or game bird meats sold by licensed retailers may be served at any hotel, restaurant or other licensed eating place in this state.

(d) The director may propose rules for promulgation in accordance with article three, chapter twenty-nine-a of this code dealing with the sale of wildlife and the skins thereof.
AN ACT to repeal §20-2-19a of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-5, §20-2-42g and §20-2-42h of said code, all relating to hunting; repealing limitations on trappers on Sundays; eliminating local option election regarding hunting on Sunday on private land; permitting hunting on Sunday on private land; clarifying hunting on Sunday on public lands is unlawful; and superseding ballot measures relating to Sunday hunting that have passed or failed prior to the effective date of the amendments.

Be it enacted by the Legislature of West Virginia:

That §20-2-19a of the Code of West Virginia, 1931, as amended, be repealed; and that §20-2-5, §20-2-42g and §20-2-42h of said code be amended and reenacted, all to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

*§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts; Sunday hunting.

1 (a) Except as authorized by the director or by law, it is unlawful at any time for any person to:

*NOTE: This section was also amended by H. B. 2679 (Chapter 163), which passed subsequent to this act.
(1) Shoot at any wild bird or wild animal unless it is plainly visible;

(2) Dig out, cut out, smoke out, or in any manner take or attempt to take any live wild animal or wild bird out of its den or place of refuge;

(3) Use or attempt to use any artificial light or any night vision technology, including image intensification, thermal imaging or active illumination, while hunting, locating, attracting, taking, trapping or killing any wild bird or wild animal: Provided, That it is lawful to hunt or take coyote, fox, raccoon, opossum or skunk by the use of artificial light or night vision technology;

Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not less than $100 nor more than $500, and shall be confined in jail for not less than ten days nor more than one hundred days;

(4) Hunt, take, kill, wound or shoot at wild animals or wild birds from an airplane or other airborne conveyance, a drone or other unmanned aircraft, an automobile or other land conveyance, or from a motor-driven water conveyance;

(5) Use a drone or other unmanned aircraft to hunt, take or kill a wild bird or wild animal, or to use a drone or other unmanned aircraft to drive or herd any wild bird or wild animal for the purposes of hunting, trapping or killing;

(6) Take any beaver or muskrat by any means other than a trap;

(7) Catch, capture, take, hunt or kill by seine, net, bait, trap or snare or like device a bear, wild turkey, ruffed grouse, pheasant or quail;

(8) Intentionally destroy or attempt to destroy the nest or eggs of any wild bird or have in his or her possession the nest or eggs;
(9) Carry an uncased or loaded firearm in the woods of this state with the following permissible exceptions:

(A) A person in possession of a valid license or permit during open firearms hunting season for wild animals and nonmigratory wild birds;

(B) A person hunting or taking unprotected species of wild animals, wild birds and migratory wild birds during the open season, in the open fields, open water and open marshes of the state;

(C) A person carrying a firearm pursuant to sections six and six-a of this article; or

(D) A person carrying a firearm for self-defense who is not prohibited from possessing firearms by section seven, article seven, chapter sixty-one of this code;

(10) Have in his or her possession a crossbow with a nocked bolt, or a rifle or shotgun with cartridges that have not been removed or a magazine that has not been detached, in or on any vehicle or conveyance, or its attachments. For the purposes of this section, a rifle or shotgun whose magazine readily detaches is considered unloaded if the magazine is detached and no cartridges remain in the rifle or shotgun itself. Except that between five o’clock post meridian of day one and seven o’clock ante meridian, Eastern Standard Time, of the following day, any unloaded firearm or crossbow may be carried only when in a case or taken apart and securely wrapped. During the period from July 1 to September 30, inclusive, of each year, the requirements relative to carrying unloaded firearms are permissible only from eight-thirty o’clock post meridian to five o’clock ante meridian, Eastern Standard Time: Provided, That the time periods for carrying unloaded and uncased firearms are extended for one hour after the post meridian times and one hour before the ante meridian times established in this subdivision, if a person is transporting or transferring the firearms to or from a hunting site, campsite, home or other abode;
(11) Hunt, catch, take, kill, injure or pursue a wild animal or wild bird with the use of a ferret;

(12) Buy raw furs, pelts or skins of fur-bearing animals unless licensed to do so;

(13) Catch, take, kill or attempt to catch, take or kill any fish by any means other than by rod, line and hooks with natural or artificial lures: Provided, That snaring of any species of suckers, carp, fallfish and creek chubs is lawful;

(14) Employ, hire, induce or persuade, with money, things of value or by any means, any person to hunt, take, catch or kill any wild animal or wild bird except those species in which there is no closed season; or to fish for, catch, take or kill any fish, amphibian or aquatic life that is protected by rule, or the sale of which is otherwise prohibited;

(15) Hunt, catch, take, kill, capture, pursue, transport, possess or use any migratory game or nongame birds except as permitted by the Migratory Bird Treaty Act, 16 U. S. C. (703, et seq., and its regulations;

(16) Kill, take, catch, sell, transport or have in his or her possession, living or dead, any wild bird other than a game bird including the plumage, skin or body of any protected bird, irrespective of whether the bird was captured in or out of this state, except the English or European sparrow (Passer domesticus), starling (Sturnus vulgaris) and cowbird (Molothrus ater), which may be killed at any time;

(17) Use dynamite, explosives or any poison in any waters of the state for the purpose of killing or taking fish. Any person violating this subdivision is guilty of a felony and, upon conviction thereof, shall be fined not more than $500 or imprisoned for not less than six months nor more than three years, or both fined and imprisoned;

(18) Have a bow and gun, or have a gun and any arrow, in the fields or woods at the same time;

(19) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take or attempt to take any wildlife
except as otherwise provided in sections five-g and forty-two-w of this article;

(20) Take or attempt to take turkey, bear, elk or deer with any arrow unless the arrow is equipped with a point having at least two sharp cutting edges measuring in excess of three fourths of an inch wide;

(21) Take or attempt to take any wildlife with an arrow having an explosive head or shaft, a poisoned arrow or an arrow which would affect wildlife by any chemical action;

(22) Shoot an arrow across any public highway;

(23) Permit any dog owned or under his or her control to chase, pursue or follow the tracks of any wild animal or wild bird, day or night, between May 1 and August 15: Provided, That dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or upon the grounds or lands of another person with his or her written permission, or on public lands at any time. Nonresidents may not train dogs in this state at any time except during the legal small game hunting season. A person training dogs may not have firearms or other implements in his or her possession during the closed season on wild animals and wild birds;

(24) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water race or wild hunt: Provided, That any person, group of persons, club or organization may hold a trial upon obtaining a permit pursuant to section fifty-six of this article. The person responsible for obtaining the permit shall prepare and keep an accurate record of the names and addresses of all persons participating in the trial and make the records readily available for inspection by any natural resources police officer upon request;

(25) Hunt, catch, take, kill or attempt to hunt, catch, take or kill any wild animal, wild bird or wild fowl except during open seasons;
141 (26) Hunt on public lands on Sunday after five o’clock ante meridian; and
142
143 (27) Hunt or conduct hunts for a fee when the person is not physically present in the same location as the wildlife being hunted within West Virginia.
144
145 (b) Notwithstanding any ballot measure relating to Sunday hunting, it is lawful to hunt throughout the State of West Virginia on private lands on Sundays after the hour of five o’clock ante meridian with the written consent of the private landowner pursuant to section seven, article two of this chapter.

*§20-2-42g. Class H nonresident small game hunting license.*

A Class H license is a nonresident small game hunting license and entitles the licensee to hunt small game in all counties of the state, except as prohibited by rules of the director or Natural Resources Commission and except when additional licenses, stamps or permits are required, for a period of six consecutive hunting days chosen by the licensee. The fee for the license is $25. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

*§20-2-42h. Class J nonresident small game shooting preserve license.*

A Class J license is a nonresident small game shooting preserve license and entitles the licensee to hunt small game on designated shooting preserves, except as prohibited by rules of the director or Natural Resources Commission and except when additional licenses, stamps or permits are required, for a period of six consecutive hunting days chosen by the licensee. The fee for the license is $10. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

*Note: This section was also amended by H. B. 2679 (Chapter 163), which passed subsequent to this act.*
AN ACT to amend and reenact §20-7-1c of the Code of West Virginia, 1931, as amended, relating to compensation for Natural Resources Police Officers.

Be it enacted by the Legislature of West Virginia:

That §20-7-1c of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7. LAW ENFORCEMENT; MOTORBOATING; LITTER.

§20-7-1c. Natural resources police officer, ranks, salary schedule, base pay, exceptions.

(a) Notwithstanding any provision of this code to the contrary, the ranks within the law-enforcement section of the Division of Natural Resources are colonel, lieutenant colonel, major, captain, lieutenant, sergeant, corporal, natural resources police officer first class, senior natural resources police officer, natural resources police officer and natural resources police officer-in-training. Each officer while in uniform shall wear the insignia of rank as provided by the chief natural resources police officer.

(b) Beginning on July 1, 2002, through June 30, 2011, Natural Resources Police Officers shall be paid the minimum annual salaries based on the following schedule:
<table>
<thead>
<tr>
<th>Rank</th>
<th>Annual Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Resources Police Officer In Training (first year until end of probation)</td>
<td>$26,337</td>
</tr>
<tr>
<td>Natural Resources Police Officer (second year)</td>
<td>$29,768</td>
</tr>
<tr>
<td>Natural Resources Police Officer (third year)</td>
<td>$30,140</td>
</tr>
<tr>
<td>Senior Natural Resources Police Officer (fourth and fifth year)</td>
<td>$30,440</td>
</tr>
<tr>
<td>Senior Natural Resources Police Officer First Class (after fifth year)</td>
<td>$32,528</td>
</tr>
<tr>
<td>Senior Natural Resources Police Officer (after tenth year)</td>
<td>$33,104</td>
</tr>
<tr>
<td>Senior Natural Resources Police Officer (after fifteenth year)</td>
<td>$33,528</td>
</tr>
<tr>
<td>Corporal (after sixteenth year)</td>
<td>$36,704</td>
</tr>
<tr>
<td>Sergeant</td>
<td>$40,880</td>
</tr>
<tr>
<td>First Sergeant</td>
<td>$42,968</td>
</tr>
<tr>
<td>Lieutenant</td>
<td>$47,144</td>
</tr>
<tr>
<td>Captain</td>
<td>$49,232</td>
</tr>
<tr>
<td>Major</td>
<td>$51,320</td>
</tr>
<tr>
<td>Lieutenant Colonel</td>
<td>$53,408</td>
</tr>
<tr>
<td>Colonel</td>
<td></td>
</tr>
</tbody>
</table>
Beginning July 1, 2011, and continuing thereafter, Natural Resources Police Officers shall be paid the minimum annual salaries based on the following schedule:

**ANNUAL SALARY SCHEDULE (BASE PAY)**

**SUPERVISORY AND NONSUPERVISORY RANKS**

<table>
<thead>
<tr>
<th>Rank</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Resources Police Officer in Training (first year until end of probation)</td>
<td>$31,222</td>
</tr>
<tr>
<td>Natural Resources Police Officer (second year)</td>
<td>$34,881</td>
</tr>
<tr>
<td>Natural Resources Police Officer (third year)</td>
<td>$35,277</td>
</tr>
<tr>
<td>Senior Natural Resources Police Officer (fourth and fifth year)</td>
<td>$35,601</td>
</tr>
<tr>
<td>Senior Natural Resources Police Officer First Class (after fifth year)</td>
<td>$37,797</td>
</tr>
<tr>
<td>Senior Natural Resources Police Officer (after tenth year)</td>
<td>$38,397</td>
</tr>
<tr>
<td>Senior Natural Resources Police Officer (after fifteenth year)</td>
<td>$38,833</td>
</tr>
<tr>
<td>Corporal (after sixteenth year)</td>
<td>$42,105</td>
</tr>
<tr>
<td>Sergeant</td>
<td>$46,401</td>
</tr>
<tr>
<td>First Sergeant</td>
<td>$48,549</td>
</tr>
<tr>
<td>Lieutenant</td>
<td>$52,857</td>
</tr>
<tr>
<td>Captain</td>
<td>$55,005</td>
</tr>
<tr>
<td>Major</td>
<td>$57,153</td>
</tr>
<tr>
<td>Lieutenant Colonel</td>
<td>$59,301</td>
</tr>
<tr>
<td>Colonel</td>
<td>$66,000</td>
</tr>
</tbody>
</table>
Beginning July 1, 2017, the director may set additional annual compensation for Natural Resources Police Officers based on rank and length of service in addition to the minimum annual salaries provided in this section in an amount payable solely from the Law Enforcement Program Fund and the Special Revenue License Fund. Each Natural Resources Police Officer whose minimum salary is fixed and specified in the Annual Salary Schedule in this section is entitled to the length of service increases set forth in section one-a of this article.

In applying the salary schedules set forth in this section where salary increases are provided for length of service, Natural Resources Police Officers in service at the time the schedules become effective shall be given credit for prior service and shall be paid salaries the same length of service entitles them to receive under the provisions of this section.

(c) This section does not apply to special or emergency Natural Resources Police Officers appointed under the authority of section one of this article.

(d) Nothing in this section prohibits other pay increases as provided under section two, article five, chapter five of this code: Provided, That any across-the-board pay increase granted by the Legislature or the Governor, and any increase in the base pay for the ranks within the law-enforcement section authorized by the director, will be added to, and reflected in, the minimum salaries set forth in this section; and that any merit increases granted to an officer over and above the annual salary schedule listed in subsection (b) of this section are retained by an officer when he or she advances from one rank to another: Provided, however, That any Natural Resources Police Officer who receives an increase in compensation pursuant to the amendment and reenactment of this section in 2011 shall not receive any across-the-board pay increase granted by the Legislature or the Governor in 2011.
AN ACT to amend and reenact §11-16-18 of the Code of West Virginia, 1931, as amended, relating to the use of outside speakers by persons licensed to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer.

Be it enacted by the Legislature of West Virginia:

That §11-16-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 16. NONINTOXICATING BEER.

§11-16-18. Unlawful acts of licensees; criminal penalties.

(a) It shall be unlawful:

(1) For any licensee, his, her, its or their servants, agents or employees to sell, give or dispense, or any individual to drink or consume, in or on any licensed premises or in any rooms directly connected, nonintoxicating beer or cooler on weekdays between the hours of two o’clock a.m. and seven o’clock a.m., or between the hours of two o’clock a.m. and one o’clock p.m., or a Class A retail dealer who sells nonintoxicating beer for on premises consumption only between the hours of two o’clock a.m. and ten o’clock a.m. in any county upon approval as provided for in section three-pp, article one, chapter seven of this code, on any Sunday, except in private clubs licensed under the provisions of article seven, chapter sixty of this code, where
the hours shall conform with the hours of sale of alcoholic liquors;

(2) For any licensee, his, her, its or their servants, agents or employees to sell, furnish or give any nonintoxicating beer, as defined in this article, to any person visibly or noticeably intoxicated or to any person known to be insane or known to be a habitual drunkard;

(3) For any licensee, his, her, its or their servants, agents or employees to sell, furnish or give any nonintoxicating beer as defined in this article to any person who is less than twenty-one years of age;

(4) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any nonintoxicating beer as defined in this article, except for cash and no right of action shall exist to collect any claims for credit extended contrary to the provisions of this subdivision. Nothing herein contained in this section prohibits a licensee from crediting to a purchaser the actual price charged for packages or containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid or deposited for the containers when title is retained by the vendor: Provided, That a distributor may accept an electronic transfer of funds if the transfer of funds is initiated by an irrevocable payment order on the invoiced amount for the nonintoxicating beer. The cost of the electronic fund transfer shall be borne by the retailer and the distributor shall initiate the transfer no later than noon of one business day after the delivery;

(5) For any brewer or distributor or brew-pub or his, her, its or their agents to transport or deliver nonintoxicating beer as defined in this article to any retail licensee on Sunday;

(6) For any brewer or distributor to give, furnish, rent or sell any equipment, fixtures, signs or supplies directly or indirectly or through a subsidiary or affiliate to any licensee
engaged in selling products of the brewing industry at retail
or to offer any prize, premium, gift or other similar
inducement, except advertising matter of nominal value, to
either trade or consumer buyers: Provided, That a
distributor may offer, for sale or rent, tanks of carbonic gas.
Nothing herein contained in this section prohibits a brewer
from sponsoring any professional or amateur athletic event
or from providing prizes or awards for participants and
winners in any events: Provided, however, That no event
shall be sponsored which permits actual participation by
athletes or other persons who are minors, unless specifically
authorized by the commissioner;

(7) For any licensee to permit in his or her premises any
lewd, immoral or improper entertainment, conduct or
practice;

(8) For any licensee except the holder of a license to
operate a private club issued under the provisions of article
seven, chapter sixty of this code or a holder of a license or a
private wine restaurant issued under the provisions of article
eight of said chapter to possess a federal license, tax receipt
or other permit entitling, authorizing or allowing the
licensee to sell liquor or alcoholic drinks other than
nonintoxicating beer;

(9) For any licensee to obstruct the view of the interior
of his or her premises by enclosure, lattice, drapes or any
means which would prevent plain view of the patrons
occupying the premises. The interior of all licensed
premises shall be adequately lighted at all times: Provided,
That provisions of this subdivision do not apply to the
premises of a Class B retailer, the premises of a private club
licensed under the provisions of article seven, chapter sixty
of this code or the premises of a private wine restaurant
licensed under the provisions of article eight of said chapter;

(10) For any licensee to manufacture, import, sell, trade,
barter, possess or acquiesce in the sale, possession or
consumption of any alcoholic liquors on the premises
covered by a license or on premises directly or indirectly used in connection with it: Provided, That the prohibition contained in this subdivision with respect to the selling or possessing or to the acquiescence in the sale, possession or consumption of alcoholic liquors is not applicable with respect to the holder of a license to operate a private club issued under the provisions of article seven, chapter sixty of this code nor shall the prohibition be applicable to a private wine restaurant licensed under the provisions of article eight of said chapter insofar as the private wine restaurant is authorized to serve wine;

(11) For any retail licensee to sell or dispense nonintoxicating beer, as defined in this article, purchased or acquired from any source other than a distributor, brewer or manufacturer licensed under the laws of this state;

(12) For any licensee to permit loud, boisterous or disorderly conduct of any kind upon his or her premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community where the business is located: Provided, That a licensee may have speaker systems for outside broadcasting so long as the noise levels do not create a public nuisance or violate local noise ordinances;

(13) For any person whose license has been revoked, as provided in this article, to obtain employment with any retailer within the period of one year from the date of the revocation, or for any retailer to knowingly employ that person within the specified time;

(14) For any distributor to sell, possess for sale, transport or distribute nonintoxicating beer except in the original container;

(15) For any licensee to knowingly permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this state;
(16) For any Class B retailer to permit the consumption of nonintoxicating beer upon his or her licensed premises;

(17) For any Class A licensee, his, her, its or their servants, agents or employees, or for any licensee by or through any servants, agents or employees, to allow, suffer or permit any person less than eighteen years of age to loiter in or upon any licensed premises; except, however, that the provisions of this subdivision do not apply where a person under the age of eighteen years is in or upon the premises in the immediate company of his or her parent or parents, or where and while a person under the age of eighteen years is in or upon the premises for the purpose of and actually making a lawful purchase of any items or commodities therein sold, or for the purchase of and actually receiving any lawful service therein rendered, including the consumption of any item of food, drink or soft drink therein lawfully prepared and served or sold for consumption on the premises;

(18) For any distributor to sell, offer for sale, distribute or deliver any nonintoxicating beer outside the territory assigned to any distributor by the brewer or manufacturer of nonintoxicating beer or to sell, offer for sale, distribute or deliver nonintoxicating beer to any retailer whose principal place of business or licensed premises is within the assigned territory of another distributor of such nonintoxicating beer: Provided, That nothing in this section is considered to prohibit sales of convenience between distributors licensed in this state where one distributor sells, transfers or delivers to another distributor a particular brand or brands for sale at wholesale; and

(19) For any licensee or any agent, servant or employee of any licensee to knowingly violate any rule lawfully promulgated by the commissioner in accordance with the provisions of chapter twenty-nine-a of this code.

(b) Any person who violates any provision of this article including, but not limited to, any provision of this section,
or any rule, or order lawfully promulgated by the commissioner, or who makes any false statement concerning any material fact in submitting application for license or for a renewal of a license or in any hearing concerning the revocation thereof, or who commits any of the acts herein declared to be unlawful is guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not less than $25, nor more than $500, or confined in the county or regional jail for not less than thirty days nor more than six months, or by both fine and confinement. Magistrates have concurrent jurisdiction with the circuit court and any other courts having criminal jurisdiction in their county for the trial of all misdemeanors arising under this article.

(c) (1) A Class B licensee that:

(A) Has installed a transaction scan device on its licensed premises; and

(B) Can demonstrate that it requires each employee, servant or agent to verify the age of any individual to whom nonintoxicating beer is sold, furnished or given away by the use of the transaction device may not be subject to: (i) Any criminal penalties whatsoever, including those set forth in subsection (b) of this section; (ii) any administrative penalties from the commissioner; or (iii) any civil liability whatsoever for the improper sale, furnishing or giving away of nonintoxicating beer to an individual who is less than twenty-one years of age by one of his or her employees, servants or agents. Any agent, servant or employee who has improperly sold, furnished or given away nonintoxicating beer to an individual less than twenty-one years of age is subject to the criminal penalties of subsection (b) of this section. Any agent, servant or employee who has improperly sold, furnished or given away nonintoxicating beer to an individual less than twenty-one years of age is subject to termination from employment, and the employer shall have no civil liability for the termination.
(2) For purposes of this section, a Class B licensee can demonstrate that it requires each employee, servant or agent to verify the age of any individual to whom nonintoxicating beer is sold by providing evidence: (A) That it has developed a written policy which requires each employee, servant or agent to verify the age of each individual to whom nonintoxicating beer will be sold, furnished or given away; (B) that it has communicated this policy to each employee, servant or agent; and (C) that it monitors the actions of its employees, servants or agents regarding the sale, furnishing or giving away of nonintoxicating beer and that it has taken corrective action for any discovered noncompliance with this policy.

(3) “Transaction scan” means the process by which a person checks, by means of a transaction scan device, the age and identity of the cardholder, and “transaction scan device” means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information enclosed on the magnetic strip or bar code of a driver’s license or other governmental identity card.

(d) Nothing in this article nor any rule or regulation of the commissioner shall prevent or be considered to prohibit any licensee from employing any person who is at least eighteen years of age to serve in the licensee’s lawful employ, including the sale or delivery of nonintoxicating beer as defined in this article. With the prior approval of the commissioner, a licensee whose principal business is the sale of food or consumer goods or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family-oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores and convenience stores, may employ persons who are less than eighteen years of age but at least sixteen years of age: Provided, That the person’s duties may not include the sale or delivery of nonintoxicating beer or alcoholic liquors: Provided, however, That the authorization
to employ persons under the age of eighteen years shall be clearly indicated on the licensee’s license.

CHAPTER 169

(Com. Sub. for H. B. 2631 - By Delegates Howell, Martin, Hill, Arvon, Shott, Hanshaw, Lewis, Criss, Hamrick, Paynter and Hollen)

[Passed April 8, 2017; in effect ninety days from passage.] [Approved by the Governor on April 21, 2017.]

AN ACT to amend and reenact §30-1-5 of the Code of West Virginia, 1931, as amended, relating to time standards for disposition of complaint proceedings; tolling the time periods for delays attributable to the respondent; and prohibiting complaint proceeding from being dismissed for exceeding time standards when overage is result of procedural delay or obstructive action by respondent.

Be it enacted by the Legislature of West Virginia:

That §30-1-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

§30-1-5. Meetings; quorum; investigatory powers; duties.

(a) Every board referred to in this chapter shall hold at least one meeting each year, at such time and place as it may prescribe by rule, for the examination of applicants who desire to practice their respective professions or occupations in this state and to transact any other business which may legally come before it. The board may hold additional
meetings as may be necessary, which shall be called by the
secretary at the direction of the president or upon the written
request of any three members. A majority of the members
of the board constitutes a quorum for the transaction of its
business.

(b) The board may compel the attendance of witnesses,
to issue subpoenas, to conduct investigations and hire an
investigator and to take testimony and other evidence
concerning any matter within its jurisdiction. The president
and secretary of the board may administer oaths for these
purposes.

(c) Every board referred to in this chapter shall
investigate and resolve complaints which it receives and
shall, within six months of the complaint being filed, send a
status report to the party filing the complaint and the
respondent by certified mail with a signed return receipt and
within one year of the status report’s return receipt date
issue a final ruling, unless the party filing the complaint and
the board agree in writing to extend the time for the final
ruling. The time period for final ruling shall be tolled for
any delay requested or caused by the respondent or by
counsel for the respondent and in no event shall a complaint
proceeding be dismissed for exceeding the time standards in
this section when such overage is the result of procedural
delay or obstructive action by the accused or his or her
counsel or agents.

(d) Every board shall provide public access to the record
of the disposition of the complaints which it receives in
accordance with the provisions of chapter twenty-nine-b of
this code, and shall provide public access on a website to all
completed disciplinary actions in which discipline was
ordered. If a board is unable to provide access, the Attorney
General shall provide a link to this information on the
consumer protection division website, together with a link
to the website of all other boards subject to this chapter.
Every board shall report violations of individual practice
acts contained in this chapter to the board by which the
individual may be licensed and shall do so in a timely manner upon receiving notice of the violations. Every person licensed or registered by a board shall report to the board which licenses or registers him or her a known or observed violation of the practice act or the board’s rules by any other person licensed or registered by the same board and shall do so in a timely manner. Law-enforcement agencies or their personnel and courts shall report in a timely manner to the appropriate board any violations of individual practice acts by any individual.

(e) Whenever a board referred to in this chapter obtains information that a person subject to its authority has engaged in, is engaging in or is about to engage in any act which constitutes or will constitute a violation of the provisions of this chapter which are administered and enforced by that board, it may apply to the circuit court for an order enjoining the act. Upon a showing that the person has engaged, is engaging or is about to engage in any such act, the court shall order an injunction, restraining order or other order as the court may deem appropriate.

CHAPTER 170

(Com. Sub. for H. B. 2804 - By Delegates Lane, Ferro, Williams, Phillips, Maynard and Robinson)

[Passed April 8, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 26, 2017.]

AN ACT to amend and reenact §30-1-7a of the Code of West Virginia, 1931, as amended, relating to continuing education requirements; removing continuing education requirements; and removing outdated provisions.

Be it enacted by the Legislature of West Virginia:
That §30-1-7a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

§30-1-7a. Continuing education.

(a) A board referred to in this chapter shall establish continuing education requirements as a prerequisite to license renewal. A board shall develop continuing education criteria appropriate to its discipline, which shall include, but not be limited to, course content, course approval, hours required and reporting periods.

(b) Notwithstanding any other provision of this code or the provision of a legislative rule to the contrary, each person issued a license to practice medicine and surgery, a license to practice podiatry or licensed as a physician assistant by the West Virginia Board of Medicine; each person issued a license to practice dentistry by the West Virginia Board of Dental Examiners, each person issued a license to practice optometry by the West Virginia Board of Optometry, each person licensed as a pharmacist by the West Virginia Board of Pharmacy, each person licensed to practice registered professional nursing or licensed as an advanced nurse practitioner by the West Virginia Board of Examiners for Registered Professional Nurses, each person licensed as a licensed practical nurse by the West Virginia State Board of Examiners for Licensed Practical Nurses and each person licensed to practice medicine and surgery as an osteopathic physician and surgeon or licensed or certified as an osteopathic physician assistant by the West Virginia Board of Osteopathy shall complete drug diversion training, best-practice prescribing of controlled substances training and training on prescribing and administration of an opioid antagonist, as the trainings are established by his or her respective licensing board, if that person prescribes,
31 administers or dispenses a controlled substance, as that term is defined in section one hundred one, article one, chapter sixty-a of this code.

34 (1) Notwithstanding any other provision of this code or the provision of any legislative rule to the contrary, the West Virginia Board of Medicine, the West Virginia Board of Dental Examiners, the West Virginia Board of Optometry, the West Virginia Board of Pharmacy, the West Virginia Board of Examiners for Registered Professional Nurses, the West Virginia State Board of Examiners for Licensed Practical Nurses and the West Virginia Board of Osteopathy shall establish continuing education requirements and criteria appropriate to their respective discipline on the subject of drug diversion training, best-practice prescribing of controlled substances training and prescribing and administration of an opioid antagonist training for each person issued a license or certificate by their respective board who prescribes, administers or dispenses a controlled substance, as that term is defined in section one hundred one, article one, chapter sixty-a of this code, and shall develop a certification form pursuant to subdivision (b)(2) of this section.

54 (2) Each person who receives his or her initial license or certificate from any of the boards set forth in subsection (b) of this section shall complete the continuing education requirements set forth in subsection (b) of this section within one year of receiving his or her initial license from that board and each person licensed or certified by any of the boards set forth in subsection (b) of this section who has held his or her license or certificate for longer than one year shall complete the continuing education requirements set forth in subsection (b) of this section as a prerequisite to each license renewal: Provided, That a person subject to subsection (b) of this section may waive the continuing education requirements for license renewal set forth in subsection
(b) of this section if he or she completes and submits to his or her licensing board a certification form developed by his or her licensing board attesting that he or she has not prescribed, administered or dispensed a controlled substance, as that term is defined in section one hundred one, article one, chapter sixty-a of this code, during the entire applicable reporting period.

(c) Notwithstanding any other provision of this code or the provision of any legislative rule to the contrary, each person licensed to practice registered professional nursing or licensed as an advanced nurse practitioner by the West Virginia Board of Examiners for Registered Professional Nurses, each person licensed as a licensed practical nurse by the West Virginia State Board of Examiners for Licensed Practical Nurses, each person licensed to practice psychology by the Board of Examiners of Psychologists, each person licensed to practice social work by the West Virginia Board of Social Work and each person licensed to practice professional counseling by the West Virginia Board of Examiners in Counseling shall complete two hours of continuing education for each reporting period on mental health conditions common to veterans and family members of veterans, as the continuing education is established by his or her respective licensing board. In cooperation with the Secretary of the Department of Veterans’ Assistance, the continuing education shall include training on inquiring about whether the patients are veterans or family members of veterans, and screening for conditions such as post-traumatic stress disorder, risk of suicide, depression and grief and prevention of suicide. The two hours shall be part of the total hours of continuing education required by each board and not two additional hours.
CHAPTER 171

(Com. Sub. for S. B. 4 - By Senators Gaunch, Trump, Boso, Blair, Rucker, Jeffries, Stollings, Woelfel and Sypolt)

[Passed April 6, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 20, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §30-1-21; to amend and reenact §30-3-10a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-3E-14; to amend and reenact §30-4-15 of said code; to amend and reenact §30-5-17 of said code; to amend and reenact §30-7-6a of said code; to amend said code by adding thereto a new section, designated §30-7-6b; to amend said code by adding thereto a new section, designated §30-7A-6a; to amend and reenact §30-8-16 of said code; to amend and reenact §30-14-12b of said code; to amend said code by adding thereto a new section, designated §30-16-7a; to amend and reenact §30-20-13 of said code; to amend and reenact §30-21-17 of said code; and to amend and reenact §30-28-8a of said code, all relating to allowing professionals to donate time to the care of indigent and needy; permitting persons who hold an unrestricted license, certificate, registration or permit granted by another state or jurisdiction to serve as a volunteer without compensation for a charitable function for a period not to exceed ten days; permitting specific professionals who are actively practicing and whose license is in good standing to donate their expertise for the care and treatment of indigent and needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient and providing that such services may be performed in either the professional’s office or in the clinical setting; and providing for special volunteer
license for advance practice registered nurses, licensed practical nurses and chiropractors.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §30-1-21; that §30-3-10a of said code be amended and reenacted; that §30-3E-14 of said code be amended and reenacted; that §30-4-15 of said code be amended and reenacted; that §30-5-17 of said code be amended and reenacted; that §30-7-6a of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §30-7-6b; that said code be amended by adding thereto a new section, designated §30-7A-6a; that §30-8-16 of said code be amended and reenacted; that §30-14-12b of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §30-16-7a; that §30-20-13 of said code be amended and reenacted; that §30-21-17 of said code be amended and reenacted; and that §30-28-8a of said code be amended and reenacted, all to read as follows:

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

§30-1-21. Exemption from licensure for professional practice for a charitable function.

(a) A person holding an unrestricted license, certificate, registration or permit granted by another state or jurisdiction to practice a profession or occupation licensed under this chapter may serve as a volunteer without compensation for a charitable function for a period not to exceed ten days, subject to the approval process described in this section: Provided, That a person who has received any completed disciplinary actions in which discipline was ordered in any of the three most recent years, or is the subject of any pending disciplinary actions is not eligible for this charitable exemption from licensure.
(b) The person shall notify the board of the nature of the volunteer charitable practice, the specific dates the person will participate in the charitable practice, and shall provide to the board a list of all professional and occupational licenses, registrations, permits or certificates held in each state or jurisdiction for the previous three years.

(c) Upon a review of the information required by this section, the board shall provide a temporary authorization to a qualified volunteer to participate in the volunteer activity for the duration not to exceed ten days. Each board shall keep a record of each authorization issued pursuant to his section.

(d) The board may not charge a fee to authorize this charitable practice.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-10a. Special volunteer medical license; civil immunity for voluntary services rendered to indigents.

(a) There is hereby established a special volunteer medical license for physicians retired or retiring from the active practice of medicine who wish to donate their expertise for the medical care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer medical license shall be issued by the West Virginia Board of Medicine to physicians licensed or otherwise eligible for licensure under this article and the rules promulgated hereunder without the payment of any application fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof, and shall be renewable annually. The board shall develop application forms for the special license provided for in this subsection which shall contain the physician’s acknowledgment that:

(1) The physician’s practice under the special volunteer medical license will be exclusively and totally devoted to
providing medical care to needy and indigent persons in West Virginia;

(2) the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, but may donate to the clinic the proceeds of any reimbursement for any medical services rendered under the special volunteer medical license;

(3) the physician will supply any supporting documentation that the board may reasonably require; and

(4) the physician agrees to continue to participate in continuing medical education as required of physicians in active practice.

(b) Any person engaged in the active practice of medicine in this state whose license is in good standing may donate their expertise for the medical care and treatment of indigent and needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered under an arrangement may be performed in either the physician’s office or the clinical setting.

(c) Any physician who renders any medical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer medical license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service at the clinic unless the act or omission was the result of the physician’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the physician and the clinic
pursuant to which the physician will provide voluntary noncompensated medical services under the control of the clinic to patients of the clinic before the rendering of any services by the physician at the clinic: Provided, That any clinic entering into such written agreement shall be required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (a) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a physician rendering voluntary medical services at or for the clinic under a special volunteer medical license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure as listed in section ten of this article and in the legislative rules promulgated hereunder, except the fee requirements of subsections (b) and (d) of said section and of the legislative rule promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer medical license to any physician whose medical license is or has been subject to any disciplinary action or to any physician who has surrendered a medical license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her medical license, or who has elected to place a medical license in inactive status in lieu of having a complaint initiated or other action taken against his or her medical license, or who have been denied a medical license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in
this state to any physician covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physician who holds a special volunteer medical license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section: Provided, That this subsection shall not apply to a terminated policy, terminated contract of liability insurance or extended reporting endorsement attached thereto that provides (tail insurance) as defined by section two, article twenty-three, chapter thirty-three of this code: Provided, however, That nothing within this subsection shall be construed to extend coverage under a terminated policy or terminated contract of liability insurance or any extended reporting endorsement attached thereto to: (1) Alter or amend the effective policy period of any policy, contract of liability insurance or extended reporting endorsement; or (2) cover the treatment of indigent and needy patients by a physician who holds a special volunteer medical license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.

§30-3E-14. Special volunteer physician assistant license.

(a) A special volunteer physician assistant license may be issued to a physician assistant who:

(1) Is retired or is retiring from the active practice of medicine; and

(2) Wishes to donate his or her expertise for the medical care and treatment of indigent and needy patients in the
7 clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge.

9 (b) The special volunteer physician assistant license shall be issued by the appropriate licensing board:

11 (1) To a physician assistant licensed or otherwise eligible for licensure under this article;

13 (2) Without the payment of any fee; and

14 (3) The initial license shall be issued for the remainder of the licensing period.

16 (c) The special volunteer physician assistant license shall be renewed consistent with the appropriate licensing board’s other licensing requirements.

19 (d) The appropriate licensing board shall develop application forms for the special volunteer physician assistant license which shall contain the physician assistant’s acknowledgment that:

23 (1) The physician assistant’s practice under the special volunteer physician assistant license shall be exclusively devoted to providing medical care to needy and indigent persons in West Virginia;

27 (2) The physician assistant will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any medical services rendered under the special volunteer physician assistant license;

32 (3) The physician assistant shall supply any supporting documentation that the appropriate licensing board may reasonably require; and

35 (4) The physician assistant agrees to continue to participate in continuing education as required by the
(e) A physician assistant and his or her collaborating physician who render medical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge, under a special volunteer physician assistant license, without payment or compensation or the expectation or promise of payment or compensation, are immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service at the clinic unless the act or omission was the result of the physician assistant’s and his or her collaborating physician’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there shall be a written agreement between the physician assistant and the clinic pursuant to which the physician assistant shall provide voluntary uncompensated medical services under the control of the clinic to patients of the clinic before the rendering of any services by the physician assistant at the clinic. Any clinic entering into a written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(f) Notwithstanding the provisions of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a physician assistant rendering voluntary medical services at or for the clinic under a special volunteer physician assistant license.

(g) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure under this article, except the fee requirements.

(h) Nothing in this section may be construed as requiring the appropriate licensing board to issue a special volunteer physician assistant license to any physician assistant whose license is or has been subject to any disciplinary action or to any physician assistant who has
surrendered a physician assistant license or caused his or her license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a physician assistant license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a physician assistant license.

(i) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physician assistant covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing the policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of the policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physician assistant who holds a special volunteer physician assistant license.

ARTICLE 4. WEST VIRGINIA DENTAL PRACTICE ACT.

§30-4-15. Special volunteer dentist or dental hygienist license; civil immunity for voluntary services rendered to indigents.

(a) There is continued a special volunteer dentist and dental hygienist license for dentist and dental hygienists retired or retiring from the active practice of dentistry and dental hygiene who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer dentist or dental hygienist license shall be issued by the board to dentist or dental hygienists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period and
renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the dental hygienist’s acknowledgment that:

(1) The dentist or dental hygienist’s practice under the special volunteer dentist or dental hygienist license will be exclusively devoted to providing dentistry or dental hygiene care to needy and indigent persons in West Virginia;

(2) The dentist or dental hygienist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any dentistry or dental hygiene services rendered under the special volunteer dentist or dental hygienist license;

(3) The dentist or dental hygienist will supply any supporting documentation that the board may reasonably require; and

(4) The dentist or dental hygienist agrees to continue to participate in continuing professional education as required by the board for the special volunteer dentist or dental hygienist.

(b) Any person engaged in the active practice of dentistry and dental hygiene in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the dentist or dental hygienist or the clinical setting.

(c) Any dentist or dental hygienist who renders any dentistry or dental hygiene service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer dentist or dental hygienist license
authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the dental hygiene service at the clinic unless the act or omission was the result of the dentist’s or dental hygienist’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there shall be a written agreement between the dentist or dental hygienist and the clinic pursuant to which the dentist or dental hygienist will provide voluntary uncompensated dental hygiene services under the control of the clinic to patients of the clinic before the rendering of any services by the dentist or dental hygienist at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a dentist or dental hygienist rendering voluntary dental hygiene services at or for the clinic under a special volunteer dentist or dental hygienist license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, (otherwise eligible for licensure) means the satisfaction of all the requirements for licensure as listed in section eight of this article and in the legislative rules promulgated thereunder, except the fee requirements of subdivision (6) of said section and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer dentist or dental
hygienist license to any dentist or dental hygienist whose license is or has been subject to any disciplinary action or to any dentist or dental hygienist who has surrendered a license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her dentist or dental hygienist license, or who has elected to place a dentist or dental hygienist license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a dentist or dental hygienist license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any dentist or dental hygienist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a dentist or dental hygienist who holds a special volunteer dentist or dental hygienist license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS AND PHARMACIES.

§30-5-17. Special volunteer pharmacist license; civil immunity for voluntary services rendered to indigents.

(a) There is a special volunteer pharmacist license for pharmacists retired or retiring from the active practice of pharmacist care who wish to donate their expertise for the pharmacist care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer pharmacist license shall be issued by the board to pharmacists licensed or otherwise
eligible for licensure under this article and the legislative
rules promulgated hereunder without the payment of an
application fee, license fee or renewal fee, and the initial
license shall be issued for the remainder of the licensing
period, and renewed consistent with the boards other
licensing requirements. The board shall develop application
forms for the special license provided in this subsection
which shall contain the pharmacist’s acknowledgment that:

(1) The pharmacist’s practice under the special
volunteer pharmacist license shall be exclusively devoted to
providing pharmacist care to needy and indigent persons in
West Virginia;

(2) The pharmacist may not receive any payment or
compensation, either direct or indirect, or have the
expectation of any payment or compensation, but may
donate to the clinic the proceeds of any reimbursement for
any pharmacist care rendered under the special volunteer
pharmacist license;

(3) The pharmacist will supply any supporting
documentation that the board may reasonably require; and

(4) The pharmacist agrees to continue to participate in
continuing professional education as required by the board
for the special volunteer pharmacist license.

(b) Any person engaged in the active practice of
pharmacist care in this state whose license is in good
standing may donate their expertise for the care and
treatment of indigent and needy patients pursuant to an
arrangement with a clinic organized, in whole or in part, for
the delivery of health care services without charge to the
patient. Services rendered pursuant to an arrangement may
be performed in either the pharmacist’s office or the clinical
setting.

(c) Any pharmacist who renders any pharmacist care to
indigent and needy patients of a clinic organized, in whole
or in part, for the delivery of health care services without
charge under a special volunteer pharmacist license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the pharmacist care at the clinic unless the act or omission was the result of the pharmacist’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there shall be a written agreement between the pharmacist and the clinic pursuant to which the pharmacist provides voluntary uncompensated pharmacist care under the control of the clinic to patients of the clinic before the rendering of any services by the pharmacist at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a pharmacist rendering voluntary pharmacist care at or for the clinic under a special volunteer pharmacist license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure as listed in section nine of this article and in the legislative rules promulgated thereunder, except the fee requirements of that section and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer pharmacist license to any pharmacist whose license is or has been subject to any
disciplinary action or to any pharmacist who has
surrendered a license or caused such license to lapse, expire
and become invalid in lieu of having a complaint initiated
or other action taken against his or her license, or who has
elected to place a pharmacist license in inactive status in lieu
of having a complaint initiated or other action taken against
his or her license, or who has been denied a pharmacist
license.

(g) Any policy or contract of liability insurance
providing coverage for liability sold, issued or delivered in
this state to any pharmacist covered under the provisions of
this article shall be read so as to contain a provision or
endorsement whereby the company issuing such policy
waives or agrees not to assert as a defense on behalf of the
policyholder or any beneficiary thereof, to any claim
covered by the terms of such policy within the policy limits,
the immunity from liability of the insured by reason of the
care and treatment of needy and indigent patients by a
pharmacist who holds a special volunteer pharmacist license
or who renders such care and treatment pursuant to an
arrangement with a clinic as authorized pursuant to
subsection (b) of this section.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-6a. Special volunteer registered professional nurse
license; civil immunity for voluntary services rendered to
indigents.

(a) There is established a special volunteer license for
registered professional nurses retired or retiring from the
active practice of nursing who wish to donate their expertise
for the care and treatment of indigent and needy patients in
the clinical setting of clinics organized, in whole or in part,
for the delivery of health care services without charge. The
special volunteer registered professional nurse license shall
be issued by the West Virginia Board of Examiners for
registered professional nurses to registered professional
nurses licensed or otherwise eligible for licensure under this
article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the registered professional nurse’s acknowledgment that:

(1) The registered professional nurse’s practice under the special volunteer registered professional nurse license will be exclusively devoted to providing nursing care to needy and indigent persons in West Virginia;

(2) The registered professional nurse will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any nursing services rendered under the special volunteer registered professional nurse license;

(3) The registered professional nurse will supply any supporting documentation that the board may reasonably require; and

(4) The registered professional nurse agrees to continue to participate in continuing education as required by the board for the special volunteer registered professional nurse license.

(b) Any person engaged in the active practice of nursing in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the registered professional nurse or the clinical setting.
(c) Any registered professional nurse who renders nursing service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer registered professional nurse license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the nursing service at the clinic unless the act or omission was the result of the registered professional nurse’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the registered professional nurse and the clinic pursuant to which the registered professional nurse will provide voluntary uncompensated nursing services under the control of the clinic to patients of the clinic before the rendering of any services by the registered professional nurse at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a registered professional nurse rendering voluntary nursing services at or for the clinic under a special volunteer registered professional nurse license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure as listed in section six of this article and in the legislative rules promulgated thereunder, except the fee
requirements of that section and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer registered professional nurse license to any registered professional nurse whose license is or has been subject to any disciplinary action or to any registered professional nurse who has surrendered his or her license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a registered professional nurse license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a registered professional nurse license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any registered professional nurse covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a registered professional nurse who holds a special volunteer registered professional nurse license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

§30-7-6b. Special volunteer license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for advanced practice registered nurses retired or retiring from the active practice of nursing who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole
or in part, for the delivery of health care services without charge. The special volunteer advanced practice registered nurse license shall be issued by the West Virginia Board of Examiners for Registered professional nurses to advanced practice registered nurses licensed or otherwise eligible for licensure pursuant to this article and the rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the advanced practice registered nurse’s acknowledgment that:

(1) The advanced practice registered nurse’s practice pursuant to the special volunteer advanced practice registered nurses license will be exclusively devoted to providing nursing care to needy and indigent persons in West Virginia;

(2) The advanced practice registered nurse will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any nursing services rendered pursuant to the special volunteer advanced practice registered nurse license;

(3) The advanced practice registered nurse will supply any supporting documentation that the board may reasonably require; and

(4) The advanced practice registered nurse agrees to continue to participate in continuing education as required by the board for the special volunteer advanced practice registered nurse license.

(b) Any person licensed as an advanced practice registered nurse in this state whose license is in good standing may donate their expertise for the care and
treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the advanced practice registered nurses or the clinical setting.

(c) A advanced practice registered nurse and his or her collaborating physician who render nursing service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge pursuant to a special volunteer advanced practice registered nurse license authorized pursuant to subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the nursing service at the clinic unless the act or omission was the result of the advanced practice registered nurse’s and his or her collaborating physician’s gross negligence or willful misconduct. For the immunity pursuant to this subsection to apply, there must be a written agreement between the licensed practical nurse and the clinic pursuant to which the advanced practice registered nurse will provide voluntary uncompensated nursing services under the control of the clinic to patients of the clinic before the rendering of any services by the advanced practice registered nurse at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a advanced practice registered nurse rendering voluntary nursing services at or for the clinic pursuant to a special
volunteer advanced practice registered nurse license authorized pursuant to subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure as listed in section six of this article and in the rules promulgated thereunder, except the fee requirements of that section and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer advanced practice registered nurse license to any advanced practice registered nurse whose license is or has been subject to any disciplinary action or to any advanced practice registered nurse who has surrendered his or her license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a advanced practice registered nurse license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a advanced practice registered nurse license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any advanced practice registered nurse covered pursuant to the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a advanced practice registered nurse who holds a special volunteer advanced practice registered nurse license or who renders such care and treatment
pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 7A. LICENSED PRACTICAL NURSES.

§30-7A-6a. Special volunteer license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for licensed practical nurses retired or retiring from the active practice of nursing who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer license provided by this section shall be issued by the West Virginia Board of Examiners for licensed practical nurses to licensed practical nurses licensed or otherwise eligible for licensure pursuant to this article and the rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the licensed practical nurse’s acknowledgment that:

(1) The licensed practical nurse’s practice pursuant to the special volunteer licensed practical nurse license will be exclusively devoted to providing nursing care to needy and indigent persons in West Virginia;

(2) The licensed practical nurse will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any nursing services rendered pursuant to the special volunteer licensed practical nurse license;
(3) The licensed practical nurse will supply any supporting documentation that the board may reasonably require; and

(4) The licensed practical nurse agrees to continue to participate in continuing education as required by the board for the special volunteer licensed practical nurse license.

(b) Any person engaged in the active practice of licensed practical nursing in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the licensed practical nurse or the clinical setting.

(c) Any licensed practical nurse who renders nursing service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge pursuant to a special volunteer licensed practical nurse license authorized pursuant to subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the nursing service at the clinic unless the act or omission was the result of the licensed practical nurse’s gross negligence or willful misconduct. For the immunity pursuant to this subsection to apply, there must be a written agreement between the licensed practical nurse and the clinic pursuant to which the licensed practical nurse will provide voluntary uncompensated nursing services under the control of the clinic to patients of the clinic before the rendering of any services by the licensed practical nurse at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.
(d) Notwithstanding the provisions of subsection (c) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a licensed practical nurse rendering voluntary nursing services at or for the clinic pursuant to a special volunteer licensed practical nurse license authorized pursuant to subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure as listed in section six of this article and in the rules promulgated thereunder, except the fee requirements of that section and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer licensed practical nurse license to any licensed practical nurse whose license is or has been subject to any disciplinary action or to any licensed practical nurse who has surrendered his or her license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a licensed practical nurse license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a licensed practical nurse license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any licensed practical nurse covered pursuant to the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason
of the care and treatment of needy and indigent patients by a licensed practical nurse who holds a special volunteer licensed practical nurse license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 8. OPTOMETRISTS.

§30-8-16. Special volunteer license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for optometrists who are retired or are retiring from the active practice of optometry and wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge.

(b) The special volunteer license shall be issued by the board to optometrists licensed or otherwise eligible for licensure under this article without the payment of an application fee, license fee or renewal fee, and shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements.

(c) The board shall develop application forms for the special volunteer license provided in this section which shall contain the optometrist’s acknowledgment that:

(1) The optometrist’s practice under the special volunteer license will be exclusively devoted to providing optometrical care to needy and indigent persons in West Virginia;

(2) The optometrist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any optometrical services rendered under the special volunteer license;
(3) The optometrist will supply any supporting documentation that the board may reasonably require; and

(4) The optometrist agrees to continue to participate in continuing education as required by the board for a special volunteer license.

(d) Any person engaged in the active practice of optometry in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the optometrist or the clinical setting.

(e) Any optometrist who renders any optometrical service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge, under a special volunteer license authorized under this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (d) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the optometrical service at the clinic unless the act or omission was the result of the optometrist’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, before the rendering of any services by the optometrist at the clinic, there must be a written agreement between the optometrist and the clinic stating that the optometrist will provide voluntary uncompensated optometrical services under the control of the clinic to patients of the clinic before the rendering of any services by the optometrist at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.
(f) Notwithstanding the provisions of subsection (d) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of an optometrist rendering voluntary optometrical services at or for the clinic under a special volunteer license under this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (d) of this section.

(g) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure in this article except the fee requirements.

(h) Nothing in this section may be construed as requiring the board to issue a special volunteer license to any optometrist whose license is or has been subject to any disciplinary action or to any optometrist who has surrendered a license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a license.

(i) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any optometrist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by an optometrist who holds a special volunteer license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (d) of this section.
ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-12b. Special volunteer medical license; civil immunity for voluntary services rendered to indigents.

(a) There is hereby established a special volunteer medical license for physicians retired or retiring from the active practice of osteopathy who wish to donate their expertise for the medical care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer medical license shall be issued by the West Virginia Board of Osteopathic Medicine to physicians licensed or otherwise eligible for licensure under this article and the rules promulgated hereunder without the payment of any application fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof, and shall be renewable annually. The board shall develop application forms for the special license provided for in this subsection which shall contain the physician’s acknowledgment that: (1) The physician’s practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in West Virginia; (2) the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any medical services rendered under the special volunteer medical license; (3) the physician will supply any supporting documentation that the board may reasonably require; and (4) the physician agrees to continue to participate in continuing medical education as required of physicians in active practice.

(b) Any person engaged in the active practice of osteopathy in this state whose license is in good standing may donate their expertise for the medical care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for
the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the physician’s office or the clinical setting.

(c) Any physician who renders any medical service to indigent and needy patients of clinics organized, in whole or in part, for the delivery of health care services without charge under a special volunteer medical license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service at the clinic unless the act or omission was the result of the physician’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the physician and the clinic pursuant to which the physician will provide voluntary noncompensated medical services under the control of the clinic to patients of the clinic before the rendering of any services by the physician at the clinic: Provided, That any clinic entering into such written agreement shall be required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (a) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge shall not be relieved from imputed liability for the negligent acts of a physician rendering voluntary medical services at or for the clinic under a special volunteer medical license authorized under said subsection or who renders such services pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for
licensure as listed in section ten of this article and in the legislative rules promulgated hereunder, except the fee requirements of subsections (b) and (d) of said section and of the legislative rule promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer medical license to any physician whose medical license is or has been subject to any disciplinary action or to any physician who has surrendered a medical license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her medical license, or who has elected to place a medical license in inactive status in lieu of having a complaint initiated or other action taken against his or her medical license, or who have been denied a medical license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physician covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physician who holds a special volunteer medical license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 16. CHIROPRACTORS.

§30-16-7a. Special volunteer chiropractor license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for chiropractors retired or retiring from active practice who
wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer license provided by this section shall be issued by the West Virginia Board of Chiropractic to chiropractors licensed or otherwise eligible for licensure pursuant to this article and the rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the board's other licensing requirements. The board shall develop application forms for the special volunteer license provided in this section which shall contain the applicant’s acknowledgment that:

(1) The applicant’s practice pursuant to the special volunteer license will be exclusively devoted to providing chiropractic care to needy and indigent persons in West Virginia;

(2) The applicant may not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement for any chiropractic services rendered pursuant to the special volunteer license;

(3) The applicant shall supply any supporting documentation that the board may reasonably require; and

(4) The applicant shall continue to participate in continuing education as required by the board for special volunteer chiropractor’s licenses.

(b) Any person engaged in the active practice of chiropractic in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of
health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the chiropractor’s office or the clinical setting.

(c) Any chiropractor who renders any chiropractic service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge pursuant to a special volunteer license authorized pursuant to subsection (a) of this section or an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the chiropractic service at the clinic unless the act or omission was the result of gross negligence or willful misconduct on the part of the chiropractor. For the immunity pursuant to this subsection to apply, there must be a written agreement between the chiropractor and the clinic stating that the chiropractor will provide voluntary uncompensated chiropractic services under the control of the clinic to patients of the clinic before the rendering of any services by the chiropractor at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (c) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a chiropractor rendering voluntary chiropractic services at or for the clinic pursuant to a special volunteer license authorized pursuant to this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure for a chiropractor except the fee requirements.
(f) Nothing in this section may be construed as requiring the board to issue a special volunteer license to any chiropractor whose license is or has been subject to any disciplinary action or to any chiropractor who has surrendered a license or caused a license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a license in inactive status in lieu of having a complaint initiated or other action taken against his or her license or who has been denied a license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any chiropractor covered pursuant to the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policy holder or any beneficiary there of the policy, to any claim covered by the terms of the policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a chiropractor who holds a special volunteer license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 20. PHYSICAL THERAPISTS.

§30-20-13. Special volunteer physical therapist license, physical therapist assistant license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for physical therapists or physical therapist assistants, as the case may be, retired or retiring from active practice who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer license provided by this section shall be issued by the West Virginia
Board of Physical Therapy to physical therapists or physical therapist assistants licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special volunteer license provided in this section which shall contain the applicant’s acknowledgment that:

(1) The applicant’s practice under the special volunteer license will be exclusively devoted to providing physical therapy care to needy and indigent persons in West Virginia;

(2) The applicant may not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement for any physical therapy services rendered under the special volunteer license;

(3) The applicant shall supply any supporting documentation that the board may reasonably require; and

(4) The applicant shall continue to participate in continuing education as required by the board for special volunteer physical therapists or physical therapist assistants license, as the case may be.

(b) Any person engaged in the active practice of physical therapy in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the physical therapist’s office or the clinical setting.
(c) Any physical therapist or physical therapist assistant who renders any physical therapy service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the physical therapy service at the clinic unless the act or omission was the result of gross negligence or willful misconduct on the part of the physical therapist or physical therapist assistant. In order for the immunity under this subsection to apply, there must be a written agreement between the physical therapist or physical therapist assistant and the clinic stating that the physical therapist or physical therapist assistant will provide voluntary uncompensated physical therapy services under the control of the clinic to patients of the clinic before the rendering of any services by the physical therapist or physical therapist assistant at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a physical therapist or physical therapist assistant rendering voluntary physical therapy services at or for the clinic under a special volunteer license authorized under this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for
licensure for a physical therapist or physical therapist assistant, as the case may be, except the fee requirements.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer license to any physical therapist or physical therapist assistant whose license is or has been subject to any disciplinary action or to any physical therapist or physical therapist assistant who has surrendered a license or caused a license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a license in inactive status in lieu of having a complaint initiated or other action taken against his or her license or who has been denied a license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any physical therapist or physical therapist assistant covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policy holder or any beneficiary thereof the policy, to any claim covered by the terms of the policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a physical therapist or physical therapist assistant who holds a special volunteer license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.

§30-21-17. Special volunteer psychologists license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer psychologists license for psychologists retired or retiring from the active practice of psychology who wish to donate their expertise for the psychological care and treatment of
indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer psychologist license shall be issued by the West Virginia Board of Examiners of Psychologists to psychologists licensed or otherwise eligible for licensure under this article and the legislative rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the psychologist’s acknowledgment that:

1. The psychologist’s practice under the special volunteer psychologists license will be exclusively devoted to providing psychological care to needy and indigent persons in West Virginia;

2. The psychologist will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any psychological services rendered under the special volunteer psychological license;

3. The psychologist will supply any supporting documentation that the board may reasonably require; and

4. The psychologist agrees to continue to participate in continuing education as required by the board for a special volunteer psychologists license.

(b) Any person engaged in the active practice of psychology in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services
rendered pursuant to an arrangement may be performed in either the psychologist’s office or the clinical setting.

(c) Any psychologist who renders any psychological service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer psychologist license authorized under subsection (a) of this section without payment or compensation or the expectation or promise of payment or compensation, is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the psychological service at the clinic unless the act or omission was the result of the psychologist’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the psychologist and the clinic pursuant to which the psychologist will provide voluntary uncompensated psychological services under the control of the clinic to patients of the clinic before the rendering of any services by the psychologists at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a psychologist rendering voluntary psychological services at or for the clinic under a special volunteer psychological license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure as listed in section seven of this article and in the legislative rules promulgated thereunder, except the fee
requirements of subsection (d) of that section and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer psychologist license to any psychologist whose license is or has been subject to any disciplinary action or to any psychologist who has surrendered a psychologist license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a psychologist license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a psychologist license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any psychologist covered under the provisions of this article, shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a psychologist who holds a special volunteer psychologist license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

ARTICLE 28. WEST VIRGINIA OCCUPATIONAL THERAPY PRACTICE ACT.

§30-28-8a. Special volunteer occupational therapist license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer occupational therapist license for occupational therapists retired or retiring from the active practice of occupational therapy who wish to donate their expertise for the care and treatment
of indigent and needy patients in the clinical setting of
clinics organized, in whole or in part, for the delivery of
health care services without charge. The special volunteer
occupational therapist license shall be issued by the West
Virginia Board of Occupational Therapy to occupational
therapists licensed or otherwise eligible for licensure under
this article and the legislative rules promulgated hereunder
without the payment of an application fee, license fee or
renewal fee, and the initial license shall be issued for the
remainder of the licensing period, and renewed consistent
with the boards other licensing requirements. The board
shall develop application forms for the special license
provided in this subsection which shall contain the
occupational therapist’s acknowledgment that:

(1) The occupational therapist’s practice under the
special volunteer occupational therapist license will be
exclusively devoted to providing occupational therapy care
to needy and indigent persons in West Virginia;

(2) The occupational therapist will not receive any
payment or compensation, either direct or indirect, or have
the expectation of any payment or compensation but may
donate to the clinic the proceeds of any reimbursement, for
any occupational therapy services rendered under the
special volunteer occupational therapist license;

(3) The occupational therapist will supply any
supporting documentation that the board may reasonably
require; and

(4) The occupational therapist agrees to continue to
participate in continuing education as required by the board
for a special volunteer occupational therapists license.

(b) Any person engaged in the active practice of
occupational therapy in this state whose license is in good
standing may donate their expertise for the care and
treatment of indigent and needy patients pursuant to an
arrangement with a clinic organized, in whole or in part, for
the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the occupational therapist’s office or the clinical setting.

(c) Any occupational therapist who renders any occupational therapy service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge under a special volunteer occupational therapist license authorized under subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the occupational therapy service at the clinic unless the act or omission was the result of the occupational therapist’s gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written agreement between the occupational therapist and the clinic pursuant to which the occupational therapist will provide voluntary uncompensated occupational therapy services under the control of the clinic to patients of the clinic before the rendering of any services by the occupational therapist at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (b) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of an occupational therapist rendering voluntary occupational therapy services at or for the clinic under a special volunteer occupational therapist license authorized under subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.
(e) For purposes of this section, “otherwise eligible for licensure” means the satisfaction of all the requirements for licensure as listed in section eight of this article and in the legislative rules promulgated thereunder, excepting the fee requirements of subsection (a), section eleven of this article and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer occupational therapist license to any occupational therapist whose occupational therapist license is or has been subject to any disciplinary action or to any occupational therapist who has surrendered an occupational therapist license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her occupational therapist license, or who has elected to place an occupational therapist license in inactive status in lieu of having a complaint initiated or other action taken against his or her occupational therapist license, or who has been denied an occupational therapist license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any occupational therapist covered under the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by an occupational therapist who holds a special volunteer occupational therapist license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.
AN ACT to amend and reenact §30-3-12 and §30-3-14 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-14-11 and §30-14-12a of said code, all relating generally to the regulation and licensing of medical professionals; modifying powers and duties of the Board of Medicine and the Board of Osteopathic Medicine with regard to evidence of serious misconduct of individuals subject to the boards’ jurisdictions; authorizing the Board of Medicine to deny or refuse to reissue a license to any person convicted of a felony; authorizing the Board of Medicine to take disciplinary action against a licensee or applicant for licensure who knowingly fails to report any act of gross misconduct committed by another licensee; authorizing the Board of Medicine to revoke a license or other authorization to practice or prescribe or dispense controlled substances for any period of time, including for the life of the licensee; authorizing the Board of Osteopathic Medicine to refuse to issue a license, suspend or revoke a license, fine a licensee, or order restitution or rehabilitative action by a licensee for certain causes; requiring the Board of Osteopathic Medicine to revoke or refuse to reissue the license of a physician or physician’s assistant convicted of a felony involving prescription drugs; authorizing the Board of Osteopathic Medicine to take disciplinary action against a licensee or applicant for licensure who knowingly fails to report any act of gross misconduct committed by another licensee; and requiring the Board of Medicine and the Board of Osteopathic
Medicine to report certain credible information received to appropriate authorities.

Be it enacted by the Legislature of West Virginia:

That §30-3-12 and §30-3-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §30-14-11 and §30-14-12a of said code be amended and reenacted, all to read as follows:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-12. Biennial renewal of license to practice medicine and surgery or podiatry; continuing education; rules; fee; inactive license; denial for conviction of felony offense.

(a) A license to practice medicine and surgery or podiatry in this state is valid for a term of two years.

(b) The license shall be renewed:

(1) Upon receipt of a reasonable fee, as set by the board;

(2) Submission of an application on forms provided by the board; and

(3) A certification of participation in and successful completion of a minimum of fifty hours of continuing medical or podiatric education satisfactory to the board, as appropriate to the particular license, during the preceding two-year period.

(c) The application may not require disclosure of a voluntary agreement entered into pursuant to subsection (h), section nine of this article.

(d) Continuing medical education satisfactory to the board is continuing medical education designated as Category I by the American Medical Association or the Academy of Family Physicians and alternate categories approved by the board.
(e) Continuing podiatric education satisfactory to the board is continuing podiatric education approved by the Council on Podiatric Education and alternate categories approved by the board.

(f) Notwithstanding any provision of this chapter to the contrary, beginning July 1, 2007, failure to timely submit to the board a certification of successful completion of a minimum of fifty hours of continuing medical or podiatric education satisfactory to the board, as appropriate to the particular license, shall result in the automatic expiration of any license to practice medicine and surgery or podiatry until such time as the certification, with all supporting written documentation, is submitted to and approved by the board.

(g) If a license is automatically expired and reinstatement is sought within one year of the automatic expiration, the former licensee shall:

(1) Provide certification with supporting written documentation of the successful completion of the required continuing education;

(2) Pay a renewal fee; and

(3) Pay a reinstatement fee equal to fifty percent of the renewal fee.

(h) If a license is automatically expired and more than one year has passed since the automatic expiration, the former licensee shall:

(1) Apply for a new license;

(2) Provide certification with supporting written documentation of the successful completion of the required continuing education; and

(3) Pay such fees as determined by the board.
(i) Any individual who accepts the privilege of practicing medicine and surgery or podiatry in this state is required to provide supporting written documentation of the continuing education represented as received within thirty days of receipt of a written request to do so by the board. If a licensee fails or refuses to provide supporting written documentation of the continuing education represented as received as required in this section, such failure or refusal to provide supporting written documentation is prima facie evidence of renewing a license to practice medicine and surgery or podiatry by fraudulent misrepresentation.

(j) The board may renew, on an inactive basis, the license of a physician or podiatrist who is currently licensed to practice medicine and surgery or podiatry in, but is not actually practicing, medicine and surgery or podiatry in this state. A physician or podiatrist holding an inactive license shall not practice medicine and surgery or podiatry in this state.

(k) An inactive license may be converted by the board to an active license upon a written request by the licensee to the board that:

(1) Accounts for his or her period of inactivity to the satisfaction of the board; and

(2) Submits written documentation of participation in and successful completion of a minimum of fifty hours of continuing medical or podiatric education satisfactory to the board, as appropriate to the particular license, during each preceding two-year period.

(l) An inactive license may be obtained upon receipt of a reasonable fee, as set by the board, and submission of an application on forms provided by the board on a biennial basis.

(m) The board may not require any physician or podiatrist who is retired or retiring from the active practice
of medicine and surgery or the practice of podiatry and who is voluntarily surrendering their license to return to the board the license certificate issued to them by the board.

(n) The board may deny or refuse to reissue a license to any person who has been convicted of a felony under the laws of this state, any other state, the United States or the laws of any other country or state outside of the United States.

§30-3-14. Professional discipline of physicians and podiatrists; reporting of information to board pertaining to medical professional liability and professional incompetence required; penalties; grounds for license denial and discipline of physicians and podiatrists; investigations; physical and mental examinations; hearings; sanctions; summary sanctions; reporting by the board; reapplication; civil and criminal immunity; voluntary limitation of license; probable cause determinations; referral to law enforcement authorities.

(a) The board may independently initiate disciplinary proceedings as well as initiate disciplinary proceedings based on information received from medical peer review committees, physicians, podiatrists, hospital administrators, professional societies and others.

The board may initiate investigations as to professional incompetence or other reasons for which a licensed physician or podiatrist may be adjudged unqualified based upon criminal convictions; complaints by citizens, pharmacists, physicians, podiatrists, peer review committees, hospital administrators, professional societies or others; or unfavorable outcomes arising out of medical professional liability. The board shall initiate an investigation if it receives notice that three or more judgments, or any combination of judgments and settlements resulting in five or more unfavorable outcomes arising from medical professional liability have been rendered or made against the physician or podiatrist within a five-year period. The board may not consider any judgments or settlements as
conclusive evidence of professional incompetence or
conclusive lack of qualification to practice.

(b) Upon request of the board, any medical peer review
committee in this state shall report any information that may
relate to the practice or performance of any physician or
podiatrist known to that medical peer review committee.
Copies of the requests for information from a medical peer
review committee may be provided to the subject physician
or podiatrist if, in the discretion of the board, the provision
of such copies will not jeopardize the board’s investigation.
In the event that copies are provided, the subject physician
or podiatrist is allowed fifteen days to comment on the
requested information and such comments must be
considered by the board.

The chief executive officer of every hospital shall,
within sixty days after the completion of the hospital’s
formal disciplinary procedure and also within sixty days
after the commencement of and again after the conclusion
of any resulting legal action, report in writing to the board
the name of any member of the medical staff or any other
physician or podiatrist practicing in the hospital whose
hospital privileges have been revoked, restricted, reduced or
terminated for any cause, including resignation, together
with all pertinent information relating to such action. The
chief executive officer shall also report any other formal
disciplinary action taken against any physician or podiatrist
by the hospital upon the recommendation of its medical staff
relating to professional ethics, medical incompetence,
medical professional liability, moral turpitude or drug or
alcohol abuse. Temporary suspension for failure to maintain
records on a timely basis or failure to attend staff or section
meetings need not be reported. Voluntary cessation of
hospital privileges for reasons unrelated to professional
competence or ethics need not be reported.

Any managed care organization operating in this state
which provides a formal peer review process shall report in
writing to the board, within sixty days after the completion
of any formal peer review process and also within sixty days after the commencement of and again after the conclusion of any resulting legal action, the name of any physician or podiatrist whose credentialing has been revoked or not renewed by the managed care organization. The managed care organization shall also report in writing to the board any other disciplinary action taken against a physician or podiatrist relating to professional ethics, professional liability, moral turpitude or drug or alcohol abuse within sixty days after completion of a formal peer review process which results in the action taken by the managed care organization. For purposes of this subsection, “managed care organization” means a plan that establishes, operates or maintains a network of health care providers who have entered into agreements with and been credentialed by the plan to provide health care services to enrollees or insureds to whom the plan has the ultimate obligation to arrange for the provision of or payment for health care services through organizational arrangements for ongoing quality assurance, utilization review programs or dispute resolutions.

Any professional society in this state comprised primarily of physicians or podiatrists which takes formal disciplinary action against a member relating to professional ethics, professional incompetence, medical professional liability, moral turpitude or drug or alcohol abuse shall report in writing to the board within sixty days of a final decision the name of the member, together with all pertinent information relating to the action.

Every person, partnership, corporation, association, insurance company, professional society or other organization providing professional liability insurance to a physician or podiatrist in this state, including the state Board of Risk and Insurance Management, shall submit to the board the following information within thirty days from any judgment or settlement of a civil or medical professional liability action excepting product liability actions: The name of the insured; the date of any judgment or settlement;
whether any appeal has been taken on the judgment and, if
so, by which party; the amount of any settlement or
judgment against the insured; and other information
required by the board.

Within thirty days from the entry of an order by a court
in a medical professional liability action or other civil action
in which a physician or podiatrist licensed by the board is
determined to have rendered health care services below the
applicable standard of care, the clerk of the court in which
the order was entered shall forward a certified copy of the
order to the board.

Within thirty days after a person known to be a
physician or podiatrist licensed or otherwise lawfully
practicing medicine and surgery or podiatry in this state or
applying to be licensed is convicted of a felony under the
laws of this state or of any crime under the laws of this state
involving alcohol or drugs in any way, including any
controlled substance under state or federal law, the clerk of
the court of record in which the conviction was entered shall
forward to the board a certified true and correct abstract of
record of the convicting court. The abstract shall include the
name and address of the physician or podiatrist or applicant,
the nature of the offense committed and the final judgment
and sentence of the court.

Upon a determination of the board that there is probable
cause to believe that any person, partnership, corporation,
association, insurance company, professional society or
other organization has failed or refused to make a report
required by this subsection, the board shall provide written
notice to the alleged violator stating the nature of the alleged
violation and the time and place at which the alleged
violator shall appear to show good cause why a civil penalty
should not be imposed. The hearing shall be conducted in
accordance with article five, chapter twenty-nine-a of this
code. After reviewing the record of the hearing, if the board
determines that a violation of this subsection has occurred,
the board shall assess a civil penalty of not less than $1,000
nor more than $10,000 against the violator. The board shall notify any person so assessed of the assessment in writing and the notice shall specify the reasons for the assessment. If the violator fails to pay the amount of the assessment to the board within thirty days, the Attorney General may institute a civil action in the circuit court of Kanawha County to recover the amount of the assessment. In any civil action, the court’s review of the board’s action shall be conducted in accordance with section four, article five, chapter twenty-nine-a of this code. Notwithstanding any other provision of this article to the contrary, when there are conflicting views by recognized experts as to whether any alleged conduct breaches an applicable standard of care, the evidence must be clear and convincing before the board may find that the physician or podiatrist has demonstrated a lack of professional competence to practice with a reasonable degree of skill and safety for patients.

Any person may report to the board relevant facts about the conduct of any physician or podiatrist in this state which in the opinion of that person amounts to medical professional liability or professional incompetence.

The board shall provide forms for filing reports pursuant to this section. Reports submitted in other forms shall be accepted by the board.

The filing of a report with the board pursuant to any provision of this article, any investigation by the board or any disposition of a case by the board does not preclude any action by a hospital, other health care facility or professional society comprised primarily of physicians or podiatrists to suspend, restrict or revoke the privileges or membership of the physician or podiatrist.

(c) The board may deny an application for license or other authorization to practice medicine and surgery or podiatry in this state and may discipline a physician or podiatrist licensed or otherwise lawfully practicing in this
state who, after a hearing, has been adjudged by the board as unqualified due to any of the following reasons:

1. Attempting to obtain, obtaining, renewing or attempting to renew a license to practice medicine and surgery or podiatry by bribery, fraudulent misrepresentation or through known error of the board;

2. Being found guilty of a crime in any jurisdiction, which offense is a felony, involves moral turpitude or directly relates to the practice of medicine. Any plea of nolo contendere is a conviction for the purposes of this subdivision;

3. False or deceptive advertising;

4. Aiding, assisting, procuring or advising any unauthorized person to practice medicine and surgery or podiatry contrary to law;

5. Making or filing a report that the person knows to be false; intentionally or negligently failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record required by state or federal law; or inducing another person to do any of the foregoing. The reports and records covered in this subdivision mean only those that are signed in the capacity as a licensed physician or podiatrist;

6. Requesting, receiving or paying directly or indirectly a payment, rebate, refund, commission, credit or other form of profit or valuable consideration for the referral of patients to any person or entity in connection with providing medical or other health care services or clinical laboratory services, supplies of any kind, drugs, medication or any other medical goods, services or devices used in connection with medical or other health care services;

7. Unprofessional conduct by any physician or podiatrist in referring a patient to any clinical laboratory or pharmacy in which the physician or podiatrist has a
proprietary interest unless the physician or podiatrist discloses in writing such interest to the patient. The written disclosure shall indicate that the patient may choose any clinical laboratory for purposes of having any laboratory work or assignment performed or any pharmacy for purposes of purchasing any prescribed drug or any other medical goods or devices used in connection with medical or other health care services;

As used in this subdivision, “proprietary interest” does not include an ownership interest in a building in which space is leased to a clinical laboratory or pharmacy at the prevailing rate under a lease arrangement that is not conditional upon the income or gross receipts of the clinical laboratory or pharmacy;

(8) Exercising influence within a patient-physician relationship for the purpose of engaging a patient in sexual activity;

(9) Making a deceptive, untrue or fraudulent representation in the practice of medicine and surgery or podiatry;

(10) Soliciting patients, either personally or by an agent, through the use of fraud, intimidation or undue influence;

(11) Failing to keep written records justifying the course of treatment of a patient, including, but not limited to, patient histories, examination and test results and treatment rendered, if any;

(12) Exercising influence on a patient in such a way as to exploit the patient for financial gain of the physician or podiatrist or of a third party. Any influence includes, but is not limited to, the promotion or sale of services, goods, appliances or drugs;

(13) Prescribing, dispensing, administering, mixing or otherwise preparing a prescription drug, including any controlled substance under state or federal law, other than
in good faith and in a therapeutic manner in accordance with accepted medical standards and in the course of the physician’s or podiatrist’s professional practice. A physician who discharges his or her professional obligation to relieve the pain and suffering and promote the dignity and autonomy of dying patients in his or her care and, in so doing, exceeds the average dosage of a pain relieving controlled substance, as defined in Schedules II and III of the Uniform Controlled Substance Act, does not violate this article;

(14) Performing any procedure or prescribing any therapy that, by the accepted standards of medical practice in the community, would constitute experimentation on human subjects without first obtaining full, informed and written consent;

(15) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities that the person knows or has reason to know he or she is not competent to perform;

(16) Delegating professional responsibilities to a person when the physician or podiatrist delegating the responsibilities knows or has reason to know that the person is not qualified by training, experience or licensure to perform them;

(17) Violating any provision of this article or a rule or order of the board or failing to comply with a subpoena or subpoena duces tecum issued by the board;

(18) Conspiring with any other person to commit an act or committing an act that would tend to coerce, intimidate or preclude another physician or podiatrist from lawfully advertising his or her services;

(19) Gross negligence in the use and control of prescription forms;

(20) Professional incompetence;
(21) The inability to practice medicine and surgery or podiatry with reasonable skill and safety due to physical or mental impairment, including deterioration through the aging process, loss of motor skill or abuse of drugs or alcohol. A physician or podiatrist adversely affected under this subdivision shall be afforded an opportunity at reasonable intervals to demonstrate that he or she may resume the competent practice of medicine and surgery or podiatry with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor any orders entered by the board shall be used against the physician or podiatrist in any other proceeding; or

(22) Knowingly failing to report to the board any act of gross misconduct committed by another licensee of the board.

(d) The board shall deny any application for a license or other authorization to practice medicine and surgery or podiatry in this state to any applicant who, and shall revoke the license of any physician or podiatrist licensed or otherwise lawfully practicing within this state who, is found guilty by any court of competent jurisdiction of any felony involving prescribing, selling, administering, dispensing, mixing or otherwise preparing any prescription drug, including any controlled substance under state or federal law, for other than generally accepted therapeutic purposes. Presentation to the board of a certified copy of the guilty verdict or plea rendered in the court is sufficient proof thereof for the purposes of this article. A plea of nolo contendere has the same effect as a verdict or plea of guilt. Upon application of a physician that has had his or her license revoked because of a drug related felony conviction, upon completion of any sentence of confinement, parole, probation or other court-ordered supervision and full satisfaction of any fines, judgments or other fees imposed by the sentencing court, the board may issue the applicant a new license upon a finding that the physician is, except for
the underlying conviction, otherwise qualified to practice medicine: Provided, That the board may place whatever terms, conditions or limitations it deems appropriate upon a physician licensed pursuant to this subsection.

(e) The board may refer any cases coming to its attention to an appropriate committee of an appropriate professional organization for investigation and report. Except for complaints related to obtaining initial licensure to practice medicine and surgery or podiatry in this state by bribery or fraudulent misrepresentation, any complaint filed more than two years after the complainant knew, or in the exercise of reasonable diligence should have known, of the existence of grounds for the complaint shall be dismissed: Provided, That in cases of conduct alleged to be part of a pattern of similar misconduct or professional incapacity that, if continued, would pose risks of a serious or substantial nature to the physician’s or podiatrist’s current patients, the investigating body may conduct a limited investigation related to the physician’s or podiatrist’s current capacity and qualification to practice and may recommend conditions, restrictions or limitations on the physician’s or podiatrist’s license to practice that it considers necessary for the protection of the public. Any report shall contain recommendations for any necessary disciplinary measures and shall be filed with the board within ninety days of any referral. The recommendations shall be considered by the board and the case may be further investigated by the board. The board after full investigation shall take whatever action it considers appropriate, as provided in this section.

(f) The investigating body, as provided in subsection (e) of this section, may request and the board under any circumstances may require a physician or podiatrist or person applying for licensure or other authorization to practice medicine and surgery or podiatry in this state to submit to a physical or mental examination by a physician or physicians approved by the board. A physician or
podiatrist submitting to an examination has the right, at his or her expense, to designate another physician to be present at the examination and make an independent report to the investigating body or the board. The expense of the examination shall be paid by the board. Any individual who applies for or accepts the privilege of practicing medicine and surgery or podiatry in this state is considered to have given his or her consent to submit to all examinations when requested to do so in writing by the board and to have waived all objections to the admissibility of the testimony or examination report of any examining physician on the ground that the testimony or report is privileged communication. If a person fails or refuses to submit to an examination under circumstances which the board finds are not beyond his or her control, failure or refusal is prima facie evidence of his or her inability to practice medicine and surgery or podiatry competently and in compliance with the standards of acceptable and prevailing medical practice.

(g) In addition to any other investigators it employs, the board may appoint one or more licensed physicians to act for it in investigating the conduct or competence of a physician.

(h) In every disciplinary or licensure denial action, the board shall furnish the physician or podiatrist or applicant with written notice setting out with particularity the reasons for its action. Disciplinary and licensure denial hearings shall be conducted in accordance with article five, chapter twenty-nine-a of this code. However, hearings shall be heard upon sworn testimony and the rules of evidence for trial courts of record in this state shall apply to all hearings. A transcript of all hearings under this section shall be made, and the respondent may obtain a copy of the transcript at his or her expense. The physician or podiatrist has the right to defend against any charge by the introduction of evidence, the right to be represented by counsel, the right to present and cross-examine witnesses and the right to have subpoenas and subpoenas duces tecum issued on his or her
behalf for the attendance of witnesses and the production of documents. The board shall make all its final actions public. The order shall contain the terms of all action taken by the board.

(i) In disciplinary actions in which probable cause has been found by the board, the board shall, within twenty days of the date of service of the written notice of charges or sixty days prior to the date of the scheduled hearing, whichever is sooner, provide the respondent with the complete identity, address and telephone number of any person known to the board with knowledge about the facts of any of the charges; provide a copy of any statements in the possession of or under the control of the board; provide a list of proposed witnesses with addresses and telephone numbers, with a brief summary of his or her anticipated testimony; provide disclosure of any trial expert pursuant to the requirements of Rule 26(b)(4) of the West Virginia Rules of Civil Procedure; provide inspection and copying of the results of any reports of physical and mental examinations or scientific tests or experiments; and provide a list and copy of any proposed exhibit to be used at the hearing: Provided, That the board shall not be required to furnish or produce any materials which contain opinion work product information or would be a violation of the attorney-client privilege. Within twenty days of the date of service of the written notice of charges, the board shall disclose any exculpatory evidence with a continuing duty to do so throughout the disciplinary process. Within thirty days of receipt of the board’s mandatory discovery, the respondent shall provide the board with the complete identity, address and telephone number of any person known to the respondent with knowledge about the facts of any of the charges; provide a list of proposed witnesses with addresses and telephone numbers, to be called at hearing, with a brief summary of his or her anticipated testimony; provide disclosure of any trial expert pursuant to the requirements of Rule 26(b)(4) of the West Virginia Rules of Civil Procedure; provide inspection and copying of the results of
any reports of physical and mental examinations or scientific tests or experiments; and provide a list and copy of any proposed exhibit to be used at the hearing.

(j) Whenever it finds any person unqualified because of any of the grounds set forth in subsection (c) of this section, the board may enter an order imposing one or more of the following:

(1) Deny his or her application for a license or other authorization to practice medicine and surgery or podiatry;

(2) Administer a public reprimand;

(3) Suspend, limit or restrict his or her license or other authorization to practice medicine and surgery or podiatry for not more than five years, including limiting the practice of that person to, or by the exclusion of, one or more areas of practice, including limitations on practice privileges;

(4) Revoke his or her license or other authorization to practice medicine and surgery or podiatry or to prescribe or dispense controlled substances for any period of time, including for the life of the licensee, that the board may find to be reasonable and necessary according to evidence presented in a hearing before the board or its designee;

(5) Require him or her to submit to care, counseling or treatment designated by the board as a condition for initial or continued licensure or renewal of licensure or other authorization to practice medicine and surgery or podiatry;

(6) Require him or her to participate in a program of education prescribed by the board;

(7) Require him or her to practice under the direction of a physician or podiatrist designated by the board for a specified period of time; and

(8) Assess a civil fine of not less than $1,000 nor more than $10,000.
(k) Notwithstanding the provisions of section eight, article one of this chapter, if the board determines the evidence in its possession indicates that a physician’s or podiatrist’s continuation in practice or unrestricted practice constitutes an immediate danger to the public, the board may take any of the actions provided in subsection (j) of this section on a temporary basis and without a hearing if institution of proceedings for a hearing before the board are initiated simultaneously with the temporary action and begin within fifteen days of the action. The board shall render its decision within five days of the conclusion of a hearing under this subsection.

(l) Any person against whom disciplinary action is taken pursuant to this article has the right to judicial review as provided in articles five and six, chapter twenty-nine-a of this code: Provided, That a circuit judge may also remand the matter to the board if it appears from competent evidence presented to it in support of a motion for remand that there is newly discovered evidence of such a character as ought to produce an opposite result at a second hearing on the merits before the board and:

(1) The evidence appears to have been discovered since the board hearing; and

(2) The physician or podiatrist exercised due diligence in asserting his or her evidence and that due diligence would not have secured the newly discovered evidence prior to the appeal.

A person may not practice medicine and surgery or podiatry or deliver health care services in violation of any disciplinary order revoking, suspending or limiting his or her license while any appeal is pending. Within sixty days, the board shall report its final action regarding restriction, limitation, suspension or revocation of the license of a physician or podiatrist, limitation on practice privileges or other disciplinary action against any physician or podiatrist to all appropriate state agencies, appropriate licensed health
facilities and hospitals, insurance companies or associations writing medical malpractice insurance in this state, the American Medical Association, the American Podiatry Association, professional societies of physicians or podiatrists in the state and any entity responsible for the fiscal administration of Medicare and Medicaid.

(m) Any person against whom disciplinary action has been taken under this article shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume the practice of medicine and surgery or podiatry on a general or limited basis. At the conclusion of a suspension, limitation or restriction period the physician or podiatrist may resume practice if the board has so ordered.

(n) Any entity, organization or person, including the board, any member of the board, its agents or employees and any entity or organization or its members referred to in this article, any insurer, its agents or employees, a medical peer review committee and a hospital governing board, its members or any committee appointed by it acting without malice and without gross negligence in making any report or other information available to the board or a medical peer review committee pursuant to law and any person acting without malice and without gross negligence who assists in the organization, investigation or preparation of any such report or information or assists the board or a hospital governing body or any committee in carrying out any of its duties or functions provided by law is immune from civil or criminal liability, except that the unlawful disclosure of confidential information possessed by the board is a misdemeanor as provided in this article.

(o) A physician or podiatrist may request in writing to the board a limitation on or the surrendering of his or her license to practice medicine and surgery or podiatry or other appropriate sanction as provided in this section. The board may grant the request and, if it considers it appropriate, may waive the commencement or continuation of other proceedings under this section. A physician or podiatrist
whose license is limited or surrendered or against whom other action is taken under this subsection may, at reasonable intervals, petition for removal of any restriction or limitation on or for reinstatement of his or her license to practice medicine and surgery or podiatry.

(p) In every case considered by the board under this article regarding discipline or licensure, whether initiated by the board or upon complaint or information from any person or organization, the board shall make a preliminary determination as to whether probable cause exists to substantiate charges of disqualification due to any reason set forth in subsection (c) of this section. If probable cause is found to exist, all proceedings on the charges shall be open to the public who are entitled to all reports, records and nondeliberative materials introduced at the hearing, including the record of the final action taken: Provided, That any medical records, which were introduced at the hearing and which pertain to a person who has not expressly waived his or her right to the confidentiality of the records, may not be open to the public nor is the public entitled to the records.

(q) If the board receives notice that a physician or podiatrist has been subjected to disciplinary action or has had his or her credentials suspended or revoked by the board, a hospital or a professional society, as defined in subsection (b) of this section, for three or more incidents during a five-year period, the board shall require the physician or podiatrist to practice under the direction of a physician or podiatrist designated by the board for a specified period of time to be established by the board.

(r) Notwithstanding any other provisions of this article, the board may, at any time, on its own motion, or upon motion by the complainant, or upon motion by the physician or podiatrist, or by stipulation of the parties, refer the matter to mediation. The board shall obtain a list from the West Virginia State Bar’s mediator referral service of certified mediators with expertise in professional disciplinary
matters. The board and the physician or podiatrist may choose a mediator from that list. If the board and the physician or podiatrist are unable to agree on a mediator, the board shall designate a mediator from the list by neutral rotation. The mediation shall not be considered a proceeding open to the public and any reports and records introduced at the mediation shall not become part of the public record. The mediator and all participants in the mediation shall maintain and preserve the confidentiality of all mediation proceedings and records. The mediator may not be subpoenaed or called to testify or otherwise be subject to process requiring disclosure of confidential information in any proceeding relating to or arising out of the disciplinary or licensure matter mediated: Provided, That any confidentiality agreement and any written agreement made and signed by the parties as a result of mediation may be used in any proceedings subsequently instituted to enforce the written agreement. The agreements may be used in other proceedings if the parties agree in writing.

A physician licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

Whenever the board receives credible information that a licensee of the board is engaging or has engaged in criminal activity or the commitment of a crime under state or federal law, the board shall report the information, to the extent that sensitive or confidential information may be publicly disclosed under law, to the appropriate state or federal law-enforcement authority and/or prosecuting authority. This duty exists in addition to and is distinct from the reporting required under federal law for reporting actions relating to health care providers to the United States Department of Health and Human Services.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.
§30-14-11. Refusal, suspension or revocation of license; suspension or revocation of certificate of authorization.

(a) The board may refuse to issue a license, suspend or revoke a license, fine a licensee, order restitution or rehabilitative action by a licensee, or order a combination thereof for any one or more of the following causes:

(1) Conviction of a felony, as shown by a certified copy of the record of the trial court: Provided, That if the conviction is for an offense that involves the transfer, delivery or illicit possession of a prescription drug, then the board shall revoke or refuse to issue the license of the convicted physician or physician’s assistant for a period of time until the physician or physician’s assistant demonstrates a record of rehabilitation and that he or she has the integrity, moral character and professional competence to practice in this state;

(2) Conviction of a misdemeanor involving moral turpitude;

(3) Violation of any provision of this article regulating the practice of osteopathic physicians and surgeons;

(4) Fraud, misrepresentation or deceit in procuring or attempting to procure admission to practice;

(5) Gross malpractice;

(6) Advertising by means of knowingly false or deceptive statements;

(7) Advertising, practicing or attempting to practice under a name other than one’s own;

(8) Habitual drunkenness, or habitual addiction to the use of morphine, cocaine or other habit-forming drugs; or

(9) Knowingly failing to report to the board any act of gross misconduct committed by another licensee of the board.
(b) The board shall also have the power to suspend or revoke for cause any certificate of authorization issued by it. It shall have the power to reinstate any certificate of authorization suspended or revoked by it.

(c) An osteopathic physician licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

§30-14-12a. Initiation of suspension or revocation proceedings allowed and required; reporting of information to board pertaining to professional malpractice and professional incompetence required; penalties; probable cause determinations; referrals to law enforcement authorities.

(a) The board may independently initiate suspension or revocation proceedings as well as initiate suspension or revocation proceedings based on information received from any person.

The board shall initiate investigations as to professional incompetence or other reasons for which a licensed osteopathic physician and surgeon may be adjudged unqualified if the board receives notice that three or more judgments or any combination of judgments and settlements resulting in five or more unfavorable outcomes arising from medical professional liability have been rendered or made against such osteopathic physician within a five-year period.

(b) Upon request of the board, any medical peer review committee in this state shall report any information that may relate to the practice or performance of any osteopathic physician known to that medical peer review committee. Copies of such requests for information from a medical peer review committee may be provided to the subject osteopathic physician if, in the discretion of the board, the provision of such copies will not jeopardize the board’s investigation. In the event that copies are provided, the subject osteopathic
physician has fifteen days to comment on the requested
information and such comments must be considered by the
board.

After the completion of a hospital’s formal disciplinary
procedure and after any resulting legal action, the chief
executive officer of such hospital shall report in writing to
the board within sixty days the name of any member of the
medical staff or any other osteopathic physician practicing
in the hospital whose hospital privileges have been revoked,
restricted, reduced or terminated for any cause, including
resignation, together with all pertinent information relating
to such action. The chief executive officer shall also report
any other formal disciplinary action taken against any
osteopathic physician by the hospital upon the
recommendation of its medical staff relating to professional
ethics, medical incompetence, medical malpractice, moral
turpitude or drug or alcohol abuse. Temporary suspension
for failure to maintain records on a timely basis or failure to
attend staff or section meetings need not be reported.

Any professional society in this state comprised primarily
of osteopathic physicians or physicians and surgeons of other
schools of medicine which takes formal disciplinary action
against a member relating to professional ethics, professional
incompetence, professional malpractice, moral turpitude or
drug or alcohol abuse, shall report in writing to the board
within sixty days of a final decision the name of such member,
together with all pertinent information relating to such action.

Every person, partnership, corporation, association,
insurance company, professional society or other
organization providing professional liability insurance to an
osteopathic physician in this state shall submit to the board
the following information within thirty days from any
judgment, dismissal or settlement of a civil action or of any
claim involving the insured: The date of any judgment,
dismissal or settlement; whether any appeal has been taken
on the judgment, and, if so, by which party; the amount of
any settlement or judgment against the insured; and such
other information required by the board.

Within thirty days after a person known to be an
osteopathic physician licensed or otherwise lawfully
practicing medicine and surgery in this state or applying to be
licensed is convicted of a felony under the laws of this state,
or of any crime under the laws of this state involving alcohol
or drugs in any way, including any controlled substance
under state or federal law, the clerk of the court of record in
which the conviction was entered shall forward to the board
a certified true and correct abstract of record of the convicting
court. The abstract shall include the name and address of such
osteopathic physician or applicant, the nature of the offense
committed and the final judgment and sentence of the court.

Upon a determination of the board that there is probable
cause to believe that any person, partnership, corporation,
association, insurance company, professional society or other
organization has failed or refused to make a report required
by this subsection, the board shall provide written notice to
the alleged violator stating the nature of the alleged violation
and the time and place at which the alleged violator shall
appear to show good cause why a civil penalty should not be
imposed. The hearing shall be conducted in accordance with
the provisions of article five, chapter twenty-nine-a of this
code. After reviewing the record of such hearing, if the board
determines that a violation of this subsection has occurred,
the board shall assess a civil penalty of not less than $1,000
nor more than $10,000 against such violator. The board shall
notify anyone assessed of the assessment in writing and the
notice shall specify the reasons for the assessment. If the
violator fails to pay the amount of the assessment to the board
within thirty days, the Attorney General may institute a civil
action in the circuit court of Kanawha County to recover the
amount of the assessment. In any such civil action, the court’s
review of the board’s action shall be conducted in accordance
with the provisions of section four, article five, chapter
twenty-nine-a of this code.
Any person may report to the board relevant facts about the conduct of any osteopathic physician in this state which in the opinion of such person amounts to professional malpractice or professional incompetence.

The board shall provide forms for filing reports pursuant to this section. Reports submitted in other forms shall be accepted by the board.

The filing of a report with the board pursuant to any provision of this article, any investigation by the board or any disposition of a case by the board does not preclude any action by a hospital, other health care facility or professional society comprised primarily of osteopathic physicians or physicians and surgeons of other schools of medicine to suspend, restrict or revoke the privileges or membership of such osteopathic physician.

(c) In every case considered by the board under this article regarding suspension, revocation or issuance of a license whether initiated by the board or upon complaint or information from any person or organization, the board shall make a preliminary determination as to whether probable cause exists to substantiate charges of cause to suspend, revoke or refuse to issue a license as set forth in subsection (a), section eleven of this article. If such probable cause is found to exist, all proceedings on such charges shall be open to the public who are entitled to all reports, records, and nondeliberative materials introduced at such hearing, including the record of the final action taken: Provided, That any medical records, which were introduced at such hearing and which pertain to a person who has not expressly waived his or her right to the confidentiality of such records, shall not be open to the public nor is the public entitled to such records. If a finding is made that probable cause does not exist, the public has a right of access to the complaint or other document setting forth the charges, the findings of fact and conclusions supporting such finding that probable cause does not exist, if the subject osteopathic physician consents to such access.
(d) If the board receives notice that an osteopathic physician has been subjected to disciplinary action or has had his or her credentials suspended or revoked by the board, a medical peer review committee, a hospital or professional society, as defined in subsection (b) of this section, for three or more incidents in a five-year period, the board shall require the osteopathic physician to practice under the direction of another osteopathic physician for a specified period to be established by the board.

(e) Whenever the board receives credible information that a licensee of the board is engaging or has engaged in criminal activity or the commitment of a crime under state or federal law, the board shall report the information, to the extent that sensitive or confidential information may be publicly disclosed under law, to the appropriate state or federal law-enforcement authority and/or prosecuting authority. This duty exists in addition to and is distinct from the reporting required under federal law for reporting actions relating to health care providers to the United States Department of Health and Human Services.

CHAPTER 173

(Com. Sub. for H. B. 2509 - By Delegates Ellington, Summers, Rowan, Sobonya and Atkinson)

[Passed April 7, 2017; in effect from passage.]
[Approved by the Governor on April 26, 2017.]

AN ACT to amend and reenact §30-3-13a of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-14-12d of said code, all relating to the practice of telemedicine generally; prohibiting the prescribing of a drug with the intent of causing an abortion; and allowing a physician to prescribe controlled substances on Schedule II of the Uniform Controlled Substances Act in certain circumstances.
Be it enacted by the Legislature of West Virginia:

That §30-3-13a of the Code of West Virginia, 1931, as amended, be amended and reenacted, and that §30-14-12d of said code be amended and reenacted, all to read as follows:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-13a. Telemedicine practice; requirements; exceptions; definitions; rule-making.

(a) Definitions – For the purposes of this section:

(1) “Chronic nonmalignant pain” means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. “Chronic nonmalignant pain” does not include pain associated with a terminal condition or illness or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition or illness.

(2) “Physician” means a person licensed by the West Virginia Board of Medicine to practice allopathic medicine in West Virginia.

(3) “Store and forward telemedicine” means the asynchronous computer-based communication of medical data or images from an originating location to a physician or podiatrist at another site for the purpose of diagnostic or therapeutic assistance.

(4) “Telemedicine” means the practice of medicine using tools such as electronic communication, information technology, store and forward telecommunication, or other means of interaction between a physician or podiatrist in one location and a patient in another location, with or without an intervening health care provider.

(5) “Telemedicine technologies” means technologies and devices which enable secure electronic communications
and information exchange in the practice of telemedicine, and typically involve the application of secure real-time audio/video conferencing or similar secure video services, remote monitoring or store and forward digital image technology to provide or support health care delivery by replicating the interaction of a traditional in-person encounter between a physician or podiatrist and a patient.

(b) **Licensure** –

(1) The practice of medicine occurs where the patient is located at the time the telemedicine technologies are used.

(2) A physician or podiatrist who practices telemedicine must be licensed as provided in this article.

(3) This section does not apply to:

(A) An informal consultation or second opinion, at the request of a physician or podiatrist who is licensed to practice medicine or podiatry in this state, provided that the physician or podiatrist requesting the opinion retains authority and responsibility for the patient’s care; and

(B) Furnishing of medical assistance by a physician or podiatrist in case of an emergency or disaster, if no charge is made for the medical assistance.

(c) **Physician-patient or Podiatrist-patient relationship through telemedicine encounter** –

(1) A physician-patient or podiatrist-patient relationship may not be established through:

(A) Audio-only communication;

(B) Text-based communications such as e-mail, Internet questionnaires, text-based messaging or other written forms of communication; or

(C) Any combination thereof.
(2) If an existing physician-patient or podiatrist-patient relationship does not exist prior to the utilization to telemedicine technologies, or if services are rendered solely through telemedicine technologies, a physician-patient or podiatrist-patient relationship may only be established:

(A) Through the use of telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing or similar secure video services during the initial physician-patient or podiatrist-patient encounter; or

(B) For the practice of pathology and radiology, a physician-patient relationship may be established through store and forward telemedicine or other similar technologies.

(3) Once a physician-patient or podiatrist-patient relationship has been established, either through an in-person encounter or in accordance with subdivision (2) of this subsection, the physician or podiatrist may utilize any telemedicine technology that meets the standard of care and is appropriate for the particular patient presentation.

(d) Telemedicine practice – A physician or podiatrist using telemedicine technologies to practice medicine or podiatry shall:

(1) Verify the identity and location of the patient;

(2) Provide the patient with confirmation of the identity and qualifications of the physician or podiatrist;

(3) Provide the patient with the physical location and contact information of the physician;

(4) Establish or maintain a physician-patient or podiatrist-patient relationship that conforms to the standard of care;
(5) Determine whether telemedicine technologies are appropriate for the particular patient presentation for which the practice of medicine or podiatry is to be rendered;

(6) Obtain from the patient appropriate consent for the use of telemedicine technologies;

(7) Conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation;

(8) Create and maintain health care records for the patient which justify the course of treatment and which verify compliance with the requirements of this section; and

(9) The requirements of subdivisions (1) through (8), inclusive, of this subsection do not apply to the practice of pathology or radiology medicine through store and forward telemedicine.

(e) **Standard of care** –

The practice of medicine or podiatry provided via telemedicine technologies, including the establishment of a physician-patient or podiatrist-patient relationship and issuing a prescription via electronic means as part of a telemedicine encounter, are subject to the same standard of care, professional practice requirements and scope of practice limitations as traditional in-person physician-patient or podiatrist-patient encounters. Treatment, including issuing a prescription, based solely on an online questionnaire, does not constitute an acceptable standard of care.

(f) **Patient records** –

The patient record established during the use of telemedicine technologies shall be accessible and documented for both the physician or podiatrist and the patient, consistent with the laws and legislative rules governing patient health care records. All laws governing
the confidentiality of health care information and governing patient access to medical records shall apply to records of practice of medicine or podiatry provided through telemedicine technologies. A physician or podiatrist solely providing services using telemedicine technologies shall make documentation of the encounter easily available to the patient, and subject to the patient’s consent, to any identified care provider of the patient.

(g) Prescribing limitations –

(1) A physician or podiatrist who practices medicine to a patient solely through the utilization of telemedicine technologies may not prescribe to that patient any controlled substances listed in Schedule II of the Uniform Controlled Substances Act: Provided, That the prescribing limitations do not apply when a physician is providing treatment to patients who are minors, or if eighteen years of age or older, who are enrolled in a primary or secondary education program who are diagnosed with intellectual or developmental disabilities, neurological disease, Attention Deficit Disorder, Autism, or a traumatic brain injury in accordance with guidelines as set forth by organizations such as the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry or the American Academy of Pediatrics: Provided, however, That the physician must maintain records supporting the diagnosis and the continued need of treatment.

(2) A physician or podiatrist may not prescribe any pain-relieving controlled substance listed in Schedules II through V of the Uniform Controlled Substance Act as part of a course of treatment for chronic nonmalignant pain solely based upon a telemedicine encounter.

(3) A physician or health care provider may not prescribe any drug with the intent of causing an abortion. The term “abortion” has the same meaning ascribed to it in section two, article two-f, chapter sixteen of this code.
(h) Exceptions –

This article does not prohibit the use of audio-only or text-based communications by a physician or podiatrist who is:

(1) Responding to a call for patients with whom a physician-patient or podiatrist-patient relationship has been established through an in-person encounter by the physician or podiatrist;

(2) Providing cross coverage for a physician or podiatrist who has established a physician-patient or podiatrist-patient relationship with the patient through an in-person encounter; or

(3) Providing medical assistance in the event of an emergency situation.

(i) Rulemaking –

The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine may propose joint rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement standards for and limitations upon the utilization of telemedicine technologies in the practice of medicine and podiatry in this state.

(j) Preserving traditional physician-patient or podiatrist-patient relationship –

Nothing in this section changes the rights, duties, privileges, responsibilities and liabilities incident to the physician-patient or podiatrist-patient relationship, nor is it meant or intended to change in any way the personal character of the physician-patient or podiatrist-patient relationship. This section does not alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.
ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-12d. Telemedicine practice; requirements; exceptions; definitions; rulemaking.

(a) Definitions. – For the purposes of this section:

(1) “Chronic nonmalignant pain” means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. “Chronic nonmalignant pain” does not include pain associated with a terminal condition or illness or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition or illness.

(2) “Physician” means a person licensed by the West Virginia Board of Osteopathic Medicine to practice osteopathic medicine in West Virginia.

(3) “Store and forward telemedicine” means the asynchronous computer-based communication of medical data or images from an originating location to a physician at another site for the purpose of diagnostic or therapeutic assistance.

(4) “Telemedicine” means the practice of medicine using tools such as electronic communication, information technology, store and forward telecommunication or other means of interaction between a physician in one location and a patient in another location, with or without an intervening health care provider.

(5) “Telemedicine technologies” means technologies and devices which enable secure electronic communications and information exchange in the practice of telemedicine, and typically involve the application of secure real-time audio/video conferencing or similar secure video services, remote monitoring or store and forward digital image
technology to provide or support health care delivery by replicating the interaction of a traditional in-person encounter between a physician and a patient.

(b) **Licensure** –

(1) The practice of medicine occurs where the patient is located at the time the telemedicine technologies are used.

(2) A physician who practices telemedicine must be licensed as provided in this article.

(3) This section does not apply to:

(A) An informal consultation or second opinion, at the request of a physician who is licensed to practice medicine in this state, provided that the physician requesting the opinion retains authority and responsibility for the patient’s care; and

(B) Furnishing of medical assistance by a physician in case of an emergency or disaster if no charge is made for the medical assistance.

(c) **Physician-patient relationship through telemedicine encounter.**

(1) A physician-patient relationship may not be established through:

(A) Audio-only communication;

(B) Text-based communications such as e-mail, Internet questionnaires, text-based messaging or other written forms of communication; or

(C) Any combination thereof.

(2) If an existing physician-patient relationship is not present prior to the utilization to telemedicine technologies, or if services are rendered solely through telemedicine
technologies, a physician-patient relationship may only be established:

(A) Through the use of telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing or similar secure video services during the initial physician-patient encounter; or

(B) For the practice of pathology and radiology, a physician-patient relationship may be established through store and forward telemedicine or other similar technologies.

(3) Once a physician-patient relationship has been established, either through an in-person encounter or in accordance with subdivision (2) of this subsection, the physician may utilize any telemedicine technology that meets the standard of care and is appropriate for the particular patient presentation.

(d) Telemedicine practice – A physician using telemedicine technologies to practice medicine shall:

(1) Verify the identity and location of the patient;

(2) Provide the patient with confirmation of the identity and qualifications of the physician;

(3) Provide the patient with the physical location and contact information of the physician;

(4) Establish or maintain a physician-patient relationship which conforms to the standard of care;

(5) Determine whether telemedicine technologies are appropriate for the particular patient presentation for which the practice of medicine is to be rendered;

(6) Obtain from the patient appropriate consent for the use of telemedicine technologies;
(7) Conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation;

(8) Create and maintain health care records for the patient which justify the course of treatment and which verify compliance with the requirements of this section; and

(9) The requirements of subdivisions (1) through (7), inclusive, of this subsection do not apply to the practice of pathology or radiology medicine through store and forward telemedicine.

(e) Standard of care –

The practice of medicine provided via telemedicine technologies, including the establishment of a physician-patient relationship and issuing a prescription via electronic means as part of a telemedicine encounter, are subject to the same standard of care, professional practice requirements and scope of practice limitations as traditional in-person physician-patient encounters. Treatment, including issuing a prescription, based solely on an online questionnaire does not constitute an acceptable standard of care.

(f) Patient records –

The patient record established during the use of telemedicine technologies shall be accessible and documented for both the physician and the patient, consistent with the laws and legislative rules governing patient health care records. All laws governing the confidentiality of health care information and governing patient access to medical records shall apply to records of practice of medicine provided through telemedicine technologies. A physician solely providing services using telemedicine technologies shall make documentation of the encounter easily available to the patient, and subject to the
patient’s consent, to any identified care provider of the patient.

(g) Prescribing limitations –

(1) A physician who practices medicine to a patient solely through the utilization of telemedicine technologies may not prescribe to that patient any controlled substances listed in Schedule II of the Uniform Controlled Substances Act: Provided, That the prescribing limitations do not apply when a physician is providing treatment to patients who are minors, or if eighteen years of age or older, who are enrolled in a primary or secondary education program who are diagnosed with intellectual or developmental disabilities, neurological disease, Attention Deficit Disorder, Autism or a traumatic brain injury in accordance with guidelines as set forth by organizations such as the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry or the American Academy of Pediatrics: Provided, however, That the physician must maintain records supporting the diagnosis and the continued need of treatment.

(2) A physician may not prescribe any pain-relieving controlled substance listed in Schedules II through V of the Uniform Controlled Substances Act as part of a course of treatment for chronic nonmalignant pain solely based upon a telemedicine encounter.

(3) A physician or health care provider may not prescribe any drug with the intent of causing an abortion. The term “abortion” has the same meaning ascribed to it in section two, article two-f, chapter sixteen of this code.

(h) Exceptions –

This section does not prohibit the use of audio-only or text-based communications by a physician who is:
157 (1) Responding to a call for patients with whom a physician-patient relationship has been established through an in-person encounter by the physician;

160 (2) Providing cross coverage for a physician who has established a physician-patient relationship with the patient through an in-person encounter; or

163 (3) Providing medical assistance in the event of an emergency situation.

165 (i) Rulemaking –

166 The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine may propose joint rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement standards for and limitations upon the utilization of telemedicine technologies in the practice of medicine in this state.

173 (j) Preservation of the traditional physician-patient relationship.

175 Nothing in this section changes the rights, duties, privileges, responsibilities and liabilities incident to the physician-patient relationship, nor is it meant or intended to change in any way the personal character of the physician-patient relationship. This section does not alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-18; to amend and reenact §30-14-12 of said code; and to amend said code by adding thereto a new section, designated §30-14-16, all relating generally to the West Virginia Medical Practice Act; authorizing the West Virginia Board of Medicine and the West Virginia Board of Osteopathic Medicine to share staff for functions common to both boards; providing offenses and penalties for practicing osteopathic medicine without a license; and creating a felony crime of practicing or attempting to practice osteopathic medicine without a license or permit and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §30-3-18; that §30-14-12 be amended and reenacted; and that said code be amended by adding thereto a new section, designated §30-14-16, all to read as follows:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-18. Combining staff functions with West Virginia Board of Osteopathic Medicine.

1 The West Virginia Board of Medicine may employ
2 investigators, attorneys, clerks and administrative staff in
3 collaboration with the West Virginia Board of Osteopathic
4 Medicine to share duties and functions between the two boards
when it may be efficient and practical for the functioning of the boards. Any sharing of staff or staff resources shall be documented and performed pursuant to the provisions of section nineteen, article one of this chapter.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-12. Offenses; penalties.

(a) Each of the following acts constitutes a misdemeanor, punishable upon conviction by a fine of not less than $1,000 nor more than $10,000:

(1) The obtaining of or an attempt to obtain a license or permit to practice in the profession for money or any other thing of value, by fraudulent misrepresentation;

(2) The making of any willfully false oath or affirmation whenever an oath or affirmation is required by this article; and

(3) Advertising, practicing or attempting to practice under a name other than one’s own.

(b) Any person who practices or attempts to practice osteopathic medicine without a license or permit is guilty of a felony and, upon conviction, shall be fined not more than $10,000, or imprisoned in a correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

§30-14-16. Combining staff functions with West Virginia Board of Medicine.

The West Virginia Board of Osteopathic Medicine may employ investigators, attorneys, clerks and administrative staff in collaboration with the West Virginia Board of Medicine to share duties and functions between the two boards when it may be efficient and practical for the functioning of the boards. Any sharing of staff or staff resources shall be documented and performed pursuant to the provisions of section nineteen, article one of this chapter.
CHAPTER 175

(Com. Sub. for H. B. 2301 - By Delegates Summers and Ellington)

[Passed March 15, 2017; in effect ninety days from passage.]
[Approved by the Governor on March 23, 2017.]

AN ACT to repeal §16-2J-1, §16-2J-2, §16-2J-3, §16-2J-4, §16-2J-5, §16-2J-6, §16-2J-7, §16-2J-8 and §16-2J-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §30-3F-1, §30-3F-2, §30-3F-3, §30-3F-4 and §30-3F-5, all relating to direct primary care; defining terms; permitting individuals to enter into agreements, for direct primary care with an individual or other legal entity authorized to provide primary care services, outside of an insurance plan or outside of the Medicaid or Medicare program and pay for the care outside of insurance plans and the Medicaid or Medicare program; providing that insurance benefits are not forfeited by certain purchases; providing that certain products are not the offer of insurance; providing that direct primary care membership agreement is not considered insurance; prohibiting direct primary care providers from billing third-party payers for services or products under the direct primary care membership agreement; providing that a direct primary care provider is not required to obtain certain credentials; prohibiting the billing of third-party providers for direct primary care services; stating certain requirements for direct primary care membership agreement; providing rule-making authority by the West Virginia Board of Medicine, the West Virginia Board of Osteopathic Medicine, the West Virginia Board of Dentistry, the West Virginia Board of Chiropractic and the West Virginia Board of Examiners for Registered Professional Nurses to effectuate the provisions of this new article; and authorizing civil penalties in the form of sanctions...
by the respective boards for violations that constitute unprofessional conduct.

*Be it enacted by the Legislature of West Virginia:*

That §16-2J-1, §16-2J-2, §16-2J-3, §16-2J-4, §16-2J-5, §16-2J-6, §16-2J-7, §16-2J-8 and §16-2J-9 of the Code of West Virginia, 1931, as amended, be repealed; and that said code be amended by adding thereto a new article, designated §30-3F-1, §30-3F-2, §30-3F-3, §30-3F-4 and §30-3F-5, all to read as follows:

**ARTICLE 3F. DIRECT PRIMARY CARE PRACTICE.**

§30-3F-1. Definitions.

1. As used in this section:

2. (1) “Boards” means the West Virginia Board of Medicine; the West Virginia Board of Osteopathic Medicine, the West Virginia Board of Optometry, West Virginia Board of Chiropractic, West Virginia Board of Dentistry and the West Virginia Board of Examiners for Registered Professional Nurses;

3. (2) “Direct primary care membership agreement” means a written contractual agreement between a primary care provider and a person, or the person’s legal representative;

4. (3) “Direct primary care provider” means an individual or legal entity, alone or with others professionally associated with the provider or other legal entity, that is authorized to provide primary care services and who chooses to enter into a direct primary care membership agreement;

5. (4) “Medical products” means any product used to diagnose or manage a disease, including any medical device, treatment or drug;

6. (5) “Medical services” means a screen, assessment, diagnosis or treatment for the purpose of promotion of
22 health or the detection and management of disease or injury
23 within the competency and training of the direct primary
24 care provider; and

25 (6) “Primary care provider” means an individual or
26 other legal entity that is authorized to provide medical
27 services and medical products under his or her scope of
28 practice in this state.

§30-3F-2. Direct Primary Care.

1 (a) A person or a legal representative of a person may
2 seek care outside of an insurance plan, or outside of the
3 Medicaid or Medicare program, and pay for the care.

4 (b) A primary care provider may accept payment for
5 medical services or medical products outside of an
6 insurance plan.

7 (c) A primary care provider may accept payment for
8 medical services or medical products provided to a
9 Medicaid or Medicare beneficiary.

10 (d) A patient or legal representative does not forfeit
11 insurance benefits, Medicaid benefits or Medicare benefits
12 by purchasing medical services or medical products outside
13 the system.

14 (e) The offer and provision of medical services or
15 medical products purchased and provided under this article
16 is not an offer of insurance nor regulated by the insurance
17 laws of the state.

18 (f) The direct primary care provider may not bill third
19 parties on a fee for service basis for services provided under
20 the direct primary care membership agreement.

21 (g) A primary care provider may not bill any third-party
22 payer for services rendered or products sold pursuant to a
23 direct primary care membership agreement.

§30-3F-3. Prohibited and authorized practices.
(a) A direct primary care membership agreement is not insurance and is not subject to regulation by the Office of the Insurance Commission.

(b) A direct primary care provider or its agent is not required to obtain a certification of authority or license under chapter thirty-three to market, sell or offer to sell a direct primary care agreement.

(c) A direct primary care membership agreement is not a discount medical plan.

(d) A direct primary care membership agreement shall:

(1) Be in writing;

(2) Be signed by the primary care provider or agent of the primary care provider and the individual patient or his or her legal representative;

(3) Allow either party to terminate the agreement on at least 30 days prior written notice to the other party;

(4) Describe the scope of primary care services that are covered by the periodic fee;

(5) Specify the periodic fee and any additional fees outside of the periodic fee for ongoing care under the agreement;

(6) Specify the duration of the agreement and any automatic renewal periods. Any per-visit charges under the agreement will be less than the monthly equivalent of the periodic fee. The person is not required to pay more than twelve months of the fee in advance. Funds are not earned by the practice until the month of ongoing care is completed. Upon discontinuing the agreement all unearned funds are returned to the patient; and

(7) Prominently state in writing that the agreement is not health insurance.
§30-3F-4. Rules.

The boards may propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code, to effectuate the provisions of this article.

§30-3F-5. Violations.

Violations of this article constitute unprofessional conduct and may subject violators to sanctions which may be pursued by the boards.

CHAPTER 176

(H. B. 2518 - By Delegates Ellington, Summers, Rohrbach, Rowan, Hollen and Atkinson)

[Passed April 4, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 11, 2017.]

AN ACT to amend and reenact §30-5-7 of the Code of West Virginia, 1931, as amended, relating to authorizing the Board of Pharmacy to create a legislative rule to permit a pharmacist or pharmacy intern to administer certain immunizations.

Be it enacted by the Legislature of West Virginia:

That §30-5-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS AND PHARMACIES.

§30-5-7. Rule-making authority.

(a) The board shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the
provisions of this article, and articles two, three, eight, nine and ten of chapter sixty-a including:

(1) Standards and requirements for a license, permit and registration;

(2) Educational and experience requirements;

(3) Procedures for examinations and reexaminations;

(4) Requirements for third parties to prepare, administer or prepare and administer examinations and reexaminations;

(5) The passing grade on the examination;

(6) Procedures for the issuance and renewal of a license, permit and registration;

(7) A fee schedule;

(8) Continuing education requirements;

(9) Set standards for professional conduct;

(10) Establish equipment and facility standards for pharmacies;

(11) Approve courses and standards for training pharmacist technicians;

(12) Regulation of charitable clinic pharmacies;

(13) Regulation of mail order pharmacies: Provided, That until the board establishes requirements that provide further conditions for pharmacists whom consult with or who provide pharmacist care to patients regarding prescriptions dispensed in this state by a mail order pharmacy, the pharmacist in charge of the out-of-state mail order pharmacy shall be licensed in West Virginia and any other pharmacist providing pharmacist care from the mail order pharmacy shall be licensed in the state where the pharmacy is located;
(14) Agreements with organizations to form pharmacist recovery networks;

(15) Create an alcohol or chemical dependency treatment program;

(16) Establish a ratio of pharmacy technicians to on-duty pharmacist operating in any outpatient, mail order or institutional pharmacy;

(17) Regulation of telepharmacy;

(18) The minimum standards for a charitable clinic pharmacy and rules regarding the applicable definition of a pharmacist-in-charge, who may be a volunteer, at charitable clinic pharmacies: Provided, That a charitable clinic pharmacy may not be charged any applicable licensing fees and such clinics may receive donated drugs;

(19) Establish standards for substituted drug products;

(20) Establish the regulations for E-prescribing;

(21) Establish the proper use of the automated data processing system;

(22) Registration and control of the manufacture and distribution of controlled substances within this state;

(23) Regulation of pharmacies;

(24) Sanitation and equipment requirements for wholesalers, distributers and pharmacies;

(25) Procedures for denying, suspending, revoking, reinstating or limiting the practice of a licensee, permittee or registrant;

(26) Regulations on prescription paper as provided in section five, article five-w, chapter sixteen;
(27) Regulations on controlled substances as provided in article two, chapter sixty-a;

(28) Regulations on manufacturing, distributing, or dispensing any controlled substance as provided in article three, chapter sixty-a;

(29) Regulations on wholesale drug distribution as provided in article eight, chapter sixty-a;

(30) Regulations on controlled substances monitoring as provided in article nine, chapter sixty-a;

(31) Regulations on Methamphetamine Laboratory Eradication Act as provided in article ten, chapter sixty-a;

(32) Establish and maintain an official prescription paper program; and

(33) Any other rules necessary to effectuate the provisions of this article.

(b) The board may provide an exemption to the pharmacist-in-charge requirement for the opening of a new retail pharmacy or during a declared emergency;

c) The board, the Board of Medicine and the Board of Osteopathic Medicine shall jointly agree and propose rules concerning collaborative pharmacy practice for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of the code;

d) The board with the advice of the Board of Medicine and the Board of Osteopathic Medicine shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to perform influenza and pneumonia immunizations, on a person of eighteen years of age or older. These rules shall provide, at a minimum, for the following:

(1) Establishment of a course, or provide a list of approved courses, in immunization administration. The
courses shall be based on the standards established for such
courses by the Centers for Disease Control and Prevention
in the public health service of the United States Department
of Health and Human Services;

(2) Definitive treatment guidelines which shall include,
but not be limited to, appropriate observation for an adverse
reaction of an individual following an immunization;

(3) Prior to administration of immunizations, a
pharmacist shall have completed a board approved
immunization administration course and completed an
American Red Cross or American Heart Association basic
life-support training, and maintain certification in the same;

(4) Continuing education requirements for this area of
practice;

(5) Reporting requirements for pharmacists
administering immunizations to report to the primary care
physician or other licensed health care provider as identified
by the person receiving the immunization;

(6) Reporting requirements for pharmacists
administering immunizations to report to the West Virginia
Statewide Immunization Information (WVSII);

(7) That a pharmacist may not delegate the authority to
administer immunizations to any other person; unless
administered by a licensed pharmacy intern under the direct
supervision of a pharmacist of whom both pharmacist and
intern have successfully completed all board required
training; and

(8) Any other provisions necessary to implement the
provisions of this section.

e The board, the Board of Medicine and the Board of
Osteopathic Medicine shall propose joint rules for
legislative approval in accordance with the provisions of
article three, chapter twenty-nine-a of this code to permit a
licensed pharmacist or pharmacy intern to administer other
immunizations such as Hepatitis A, Hepatitis B, Herpes
Zoster, Human Papilloma Virus, and Tetanus. In addition, the joint rules shall permit a licensed pharmacist or pharmacy intern to administer influenza and Human Papilloma Virus immunizations to a person age eleven through eighteen, with written informed parental consent when presented with a prescription from a physician and there are no contraindications to that patient receiving that vaccine. These rules shall provide, at a minimum, the same provisions contained in subsection (d)(1) through (d)(8) of this section.

(f) All of the board’s rules in effect and not in conflict with these provisions, shall remain in effect until they are amended or rescinded.

CHAPTER 177

(Com. Sub. for H. B. 2846 - By Delegates Fast, O'Neal, Kessinger, Sobonya, Rowan, G. Foster, Mr. Speaker (Mr. Armstead) and Frich)

[Passed April 8, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 26, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §30-5-11a, all relating to pharmacy technician trainees; establishing qualifications; requiring a criminal background check; providing rule-making authority; and providing emergency rule-making authority.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §30-5-11a, all to read as follows:
ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS AND PHARMACIES.

§30-5-11a. Pharmacy technician trainee qualifications.

(a) To be eligible for registration as a pharmacy technician trainee to assist in the practice of pharmacist care, the applicant shall:

(1) Submit a written application to the board;

(2) Pay the applicable fees;

(3) (A) Have graduated from a high school or obtained a Certificate of General Educational Development (GED), or

(B) Be currently enrolled in a high school competency based pharmacy technician education and training program;

(4) (A) Be currently enrolled in a competency-based pharmacy technician education and training program of a learning institution or training center approved by the board; or

(B) Be an employee of a pharmacy in an on-the-job competency-based pharmacy technician training program.

(5) Not be an alcohol or drug abuser as these terms are defined in section 11, article one-a, chapter twenty-seven of this code: Provided, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a twelve-step program or other similar group or process, may be considered;

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

(7) Not have been convicted of a misdemeanor or felony in any jurisdiction which bears a rational nexus to the practice of pharmacist care, which conviction remains unreversed; and
(8) Have requested and submitted to the board the results of a fingerprint-based state and a national electronic criminal history records check.

(b) The rules, authorized duties and unauthorized prohibitions as set out in section twelve of this article for pharmacy technicians apply to pharmacy technician trainees.

(c) The board shall promulgate an emergency rule and legislative rule pursuant article two, chapter twenty-nine-a, to authorize the requirements of this section to permit pharmacy technician trainees.

CHAPTER 178

(H. B. 2522 - By Delegates Ellington, Summers, Rohrbach, Sobonya, Dean, Cooper, Hollen and Rowan)

[Passed April 4, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 25, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-7F-1, §30-7F-2, §30-7F-3, §30-7F-4, §30-7F-5, §30-7F-6, §30-7F-7, §30-7F-8, §30-7F-9, §30-7F-10 and §30-7F-11, all relating to the establishment and operation of an interstate compact for licensure of nurses; setting forth findings; setting forth the purposes for the compact; defining terms; establishing jurisdiction of the compact; providing eligibility requirements; requiring a nurse to designate a state of principal license; providing licensure requirements; establishing a licensure process; establishing application process; providing for fees; providing requirements for renewal of a license; providing for joint investigation of nurses by member boards; establishing the effect of
disciplinary actions; creating the commission to administer the compact; setting forth commission composition; establishing the authority of the commission; providing immunity; establishing commission rule-making authority; establishing licensure information system; providing for compact administrators; providing for judicial review; providing for state enforcement; providing the commission may intervene in proceedings; providing for legal enforcement of compact rules and provisions; providing for termination or withdrawal of a member state; providing for compact oversight and dispute resolution; setting forth provisions for resolution of disputes; establishing provisions for state eligibility; setting forth the circumstances under which the compact will become effective; providing for amending the compact; setting forth procedures for states to withdraw from the compact; providing process to amend the compact; and establishing provisions related to severability.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §30-7F-1, §30-7F-2, §30-7F-3, §30-7F-4, §30-7F-5, §30-7F-6, §30-7F-7, §30-7F-8, §30-7F-9, §30-7F-10 and §30-7F-11, all to read as follows:

ARTICLE 7F. NURSE LICENSURE COMPACT.

§30-7F-1. Findings and Declaration of Purpose.

1 (a) The party states find that:

2 (1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

5 (2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
(3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation’s health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(4) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

(5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and

(6) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

(b) The general purposes of this compact are to:

(1) Facilitate the states’ responsibility to protect the public’s health and safety;

(2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;

(4) Promote compliance with the laws governing the practice of nursing in each jurisdiction;

(5) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

(6) Decrease redundancies in the consideration and issuance of nurse licenses; and
(7) Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

§30-7F-2. Definitions.

As used in this compact:

(1) “Adverse action” means any administrative, civil, equitable or criminal action permitted by a state’s laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual’s license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee’s practice, or any other encumbrance on licensure affecting a nurse’s authorization to practice, including issuance of a cease and desist action.

(2) “Alternative program” means a nondisciplinary monitoring program approved by a licensing board.

(3) “Coordinated licensure information system” means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

(4) “Current significant investigative information” means:

(A) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proven true, would indicate more than a minor infraction; or

(B) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
“Encumbrance” means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

“Home state” means the party state which is the nurse’s primary state of residence.

“Licensing board” means a party state’s regulatory body responsible for issuing nurse licenses.

“Multistate license” means a license to practice as a registered or a licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

“Multistate licensure privilege” means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote state.

“Nurse” means RN or LPN/VN, as those terms are defined by each party state’s practice laws.

“Party state” means any state that has adopted this compact.

“Remote state” means a party state, other than the home state.

“Single-state license” means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

“State” means a state, territory or possession of the United States and the District of Columbia.

“State practice laws” means a party state’s laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods
and grounds for imposing discipline. “State practice laws” do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

§30-7F-3. General Provisions and Jurisdiction.

(a) A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.

(b) A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant’s criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state’s criminal records.

(c) Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

(1) Meets the home state’s qualifications for licensure or renewal of licensure, as well as, all other applicable state laws;

(2) (A) Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or

(B) Has graduated from a foreign RN or LPN/VN prelicensure education program that:

(i) Has been approved by the authorized accrediting body in the applicable country and;
(ii) Has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program.

(3) Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual’s native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;

(4) Has successfully passed an NCLEX-RN® or NCLEX-PN® Examination or recognized predecessor, as applicable;

(5) Is eligible for or holds an active, unencumbered license;

(6) Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state’s criminal records;

(7) Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

(8) Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

(9) Is not currently enrolled in an alternative program;

(10) Is subject to self-disclosure requirements regarding current participation in an alternative program; and

(11) Has a valid United States Social Security number.
(d) All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse’s multistate licensure privilege such as revocation, suspension, probation or any other action that affects a nurse’s authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(e) A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.

(f) Individuals not residing in a party state shall continue to be able to apply for a party state’s single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single-state license.

(g) Any nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse’s then-current home state, provided that:

(1) A nurse, who changes primary state of residence after this compact’s effective date, must meet all applicable
subsection (c) section three requirements to obtain a multistate license from a new home state.

(2) A nurse who fails to satisfy the multistate licensure requirements in subsection (c) section three due to a disqualifying event occurring after this compact’s effective date shall be ineligible to retain or renew a multistate license, and the nurse’s multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators (“Commission”).

§30-7F-4. Applications for Licensure in a Party State.

(a) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

(b) A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

(c) If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the commission.

(1) The nurse may apply for licensure in advance of a change in primary state of residence.

(2) A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state.
and satisfies all applicable requirements to obtain a multistate license from the new home state.

(d) If a nurse changes primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

§30-7F-5. Additional Authorities Invested in Party State Licensing Boards.

(a) In addition to the other powers conferred by state law, a licensing board shall have the authority to:

(1) Take adverse action against a nurse’s multistate licensure privilege to practice within that party state.

(A) Only the home state shall have the power to take adverse action against a nurse’s license issued by the home state.

(B) For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(2) Issue cease and desist orders or impose an encumbrance on a nurse’s authority to practice within that party state.

(3) Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.
(4) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(5) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions.

(6) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

(7) Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

(b) If adverse action is taken by the home state against a nurse’s multistate license, the nurse’s multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse’s multistate license shall include a statement that the nurse’s multistate licensure privilege is deactivated in all party states during the pendency of the order.
§30-7F-6. Coordinated Licensure Information System and Exchange of Information.

(a) All party states shall participate in a coordinated licensure information system of all licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(b) The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this compact.

(c) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials) and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

(d) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(e) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate...
information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

(f) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(g) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(h) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

   (1) Identifying information;

   (2) Licensure data;

   (3) Information related to alternative program participation; and

   (4) Other information that may facilitate the administration of this compact, as determined by commission rules.

(i) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

(a) The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

(1) The commission is an instrumentality of the party states.

(2) Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, Voting and Meetings.

(1) Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

(2) Each administrator shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator’s participation in meetings by telephone or other means of communication.

(3) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.
(4) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section eight.

(5) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

(A) Noncompliance of a party state with its obligations under this compact;

(B) The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission’s internal personnel practices and procedures;

(C) Current, threatened or reasonably anticipated litigation;

(D) Negotiation of contracts for the purchase or sale of goods, services or real estate;

(E) Accusing any person of a crime or formally censuring any person;

(F) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) Disclosure of investigatory records compiled for law enforcement purposes;

(I) Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or

(J) Matters specifically exempted from disclosure by federal or state statute.
(6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission’s legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(c) The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including but not limited to:

(1) Establishing the fiscal year of the commission;

(2) Providing reasonable standards and procedures:

(A) For the establishment and meetings of other committees; and

(B) Governing any general or specific delegation of any authority or function of the commission;

(3) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public’s interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a
copy of the vote to close the meeting revealing the vote of
each administrator, with no proxy votes allowed;

(4) Establishing the titles, duties and authority and
reasonable procedures for the election of the officers of the
commission;

(5) Providing reasonable standards and procedures for
the establishment of the personnel policies and programs of
the commission. Notwithstanding any civil service or other
similar laws of any party state, the bylaws shall exclusively
govern the personnel policies and programs of the
commission; and

(6) Providing a mechanism for winding up the
operations of the commission and the equitable disposition
of any surplus funds that may exist after the termination of
this compact after the payment or reserving of all of its debts
and obligations;

(d) The commission shall publish its bylaws and rules,
and any amendments thereto, in a convenient form on the
website of the commission.

(e) The commission shall maintain its financial records
in accordance with the bylaws.

(f) The commission shall meet and take such actions as
are consistent with the provisions of this compact and the
bylaws.

(g) The commission shall have the following powers:

(1) To promulgate uniform rules to facilitate and
coordinate implementation and administration of this
compact. The rules shall have the force and effect of law
and shall be binding in all party states;

(2) To bring and prosecute legal proceedings or actions
in the name of the commission, provided that the standing
(3) To purchase and maintain insurance and bonds;

(4) To borrow, accept or contract for services of personnel, including, but not limited to, employees of a party state or nonprofit organizations;

(5) To cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space or other resources;

(6) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the commission’s personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

(7) To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(8) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

(9) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;

(10) To establish a budget and make expenditures;

(11) To borrow money;
(12) To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;

(13) To provide and receive information from, and to cooperate with, law-enforcement agencies;

(14) To adopt and use an official seal; and

(15) To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

(h) Financing of the commission.

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

(2) The commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.

(3) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

(4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled
by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(i) Qualified Immunity, Defense and Indemnification.

(1) The administrators, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person.

(2) The commission shall defend any administrator, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error or omission did not result from that person’s intentional, willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising
out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

§30-7F-8. Rulemaking.

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

(b) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(c) Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) On the website of the commission; and

(2) On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

(d) The notice of proposed rulemaking shall include:

(1) The proposed time, date and location of the meeting in which the rule will be considered and voted upon;

(2) The text of the proposed rule or amendment, and the reason for the proposed rule;
A request for comments on the proposed rule from any interested person; and

The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

to adopt a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

The commission shall publish the place, time and date of the scheduled public hearing.

Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.

Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.

Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
(k) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety or welfare;

(2) Prevent a loss of commission or party state funds; or

(3) Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

(l) The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

§30-7F-9. Oversight, Dispute Resolution and Enforcement.

(a) Oversight

(1) Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact’s purposes and intent.
(2) The commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

(b) Default, Technical Assistance and Termination

(1) If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(A) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and

(B) Provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state’s membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the Governor of the defaulting state and to the executive officer of the defaulting state’s licensing board and each of the party states.
(4) A state whose membership in this compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys’ fees.

(c) Dispute Resolution

(1) Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(3) In the event the commission cannot resolve disputes among party states arising under this compact:

(A) The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

(B) The decision of a majority of the arbitrators shall be final and binding.
(d) Enforcement

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the U.S. District Court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys’ fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

§30-7F-10. Effective Date, Withdrawal and Amendment.

(a) This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than twenty-six states or December 31, 2018. All party states to this compact, that also were parties to the prior Nurse Licensure Compact, superseded by this compact, (“prior compact”), shall be deemed to have withdrawn from said prior compact within six months after the effective date of this compact.

(b) Each party state to this compact shall continue to recognize a nurse’s multistate licensure privilege to practice in that party state issued under the prior compact until such party state has withdrawn from the prior compact.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same. A party state’s withdrawal shall not take effect until six (6) months after enactment of the repealing statute.
(d) A party state’s withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state’s licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

(e) Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

(f) This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

(g) Representatives of nonparty states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all states.

§30-7F-11. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held to be contrary to the Constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.
AN ACT to amend and reenact §30-27-8 and §30-27-10 of the Code of West Virginia, 1931, as amended, all relating to allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber and maintain licensure through continuing education subjects related to barbering.

Be it enacted by the Legislature of West Virginia:

That §30-27-8 and §30-27-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 27. BOARD OF BARBERS AND COSMETOLOGISTS.

§30-27-8. Professional license requirements.

(a) An applicant for a professional license to practice as an aestheteician, barber, barber crossover, cosmetologist, hair stylist, cosmetologist crossover or nail technician shall present satisfactory evidence that he or she:

(1) Is at least eighteen years of age;

(2) Is of good moral character;

(3) Has a high school diploma, a GED, or has passed the “ability to benefit test” approved by the United States Department of Education;
(4) Has graduated from a licensed school which has been approved by the West Virginia Council for Community and Technical College Education (CCTCE), Department of Education in conjunction with CCTCE or Department of Education with the Department of Corrections or has completed education requirements in another state and meets the licensure provisions of the board;

(5) Has passed an examination that tests the applicant’s knowledge of subjects specified by the board: Provided, That the board may recognize a certificate or similar license in lieu of the examination or part of the examination that the board requires: Provided, however, That any examination meets national standards;

(6) Has paid the applicable fee;

(7) Presents a certificate of health from a licensed physician;

(8) Is a citizen of the United States or is eligible for employment in the United States; and

(9) Has fulfilled any other requirement specified by the board.

(b) A license to practice issued by the board prior to July 1, 2016, shall for all purposes be considered a professional license issued under this article: Provided, That a person holding a license issued prior to July 1, 2016, must renew the license pursuant to the provisions of this article.

(c) A person, who by education and experience qualifies to be a barber and a cosmetologist or a barber crossover or cosmetologist crossover, may elect at any time to practice solely as a barber and, after notice and application to the board, may be licensed as a barber without other designation.

§30-27-10. Professional license and certificate renewal requirements.
(a) A professional licensee and certificate holder shall annually on or before January 1, renew his or her professional license or certificate by completing a form prescribed by the board, paying the renewal fee and submitting any other information required by the board.

(b) The board shall charge a fee for each renewal of a license or certificate, and a late fee for any renewal not paid by the due date.

(c) The board shall require as a condition of renewal of a professional license or certificate that each licensee or certificate holder complete continuing education: subject to the following exceptions:

(1) When a barber or cosmetologist has been licensed and in practice for ten years, that barber or cosmetologist will not be required to complete any continuing education other than a three-hour sanitation class every other year for a period of ten years; and

(2) A person, who by education and experience qualifies to be a barber and a cosmetologist or a barber crossover or cosmetologist crossover, may elect to be licensed solely as a barber and shall not be required to attend or participate in continuing education programs that are not required of licensed barbers.

(d) The board may approve for continuing education credit any education course providing instruction in any curriculum, subject matter or discipline included in the education required for licensure that is submitted to the board or offered by:

(1) A licensed school or instructor, outside of school instruction;

(2) A manufacturer or distributor of barbering, aesthetics, nail technology or cosmetology products;

(3) A barber or cosmetology trade organization; or
(4) Any course offered at an accredited private or public university, college or community college in this state that relates to the profession or a general business class.

(e) The board may deny an application for renewal for any reason which would justify the denial of an original application for a license or certificate.

(f) The board shall recognize reciprocity for military barbers for the purpose of the state examination for barbers.

CHAPTER 180

(H. B. 2348 - By Delegates Howell, Maynard, Walters, McGeehan, Sypolt, Westfall, C. Miller, Hamrick, Higginbotham, Harshbarger and Ward)

[Passed April 6, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 26, 2017.]

AN ACT to amend and reenact §30-27-12 of the Code of West Virginia, 1931, as amended, relating to eliminating any requirement that class hours of students be consecutive.

Be it enacted by the Legislature of West Virginia:

That §30-27-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 27. BOARD OF BARBERS AND COSMETOLOGISTS.

§30-27-12. Student registration; classes.

(a) Prior to commencing studies in a licensed school, a student shall acquire a student registration issued by the board.
(b) An applicant for a student registration shall present satisfactory evidence that he or she meets the following conditions:

(1) Is enrolled as a student in a licensed school;
(2) Is of good moral character;
(3) Has paid the required fee;
(4) Has presented a certificate of health issued by a licensed physician; and
(5) Is a citizen of the United States or is eligible for employment in the United States.

(c) The student registration is good during the prescribed period of study for the student.

(d) The student may perform acts constituting barbering, hairstyling, cosmetology, aesthetics or nail care in a school under the general supervision of a master or certified instructor.

(e) The student is not required to take class hours that are consecutive.

CHAPTER 181


[Passed March 11, 2017; in effect ninety days from passage.]
[Approved by the Governor on March 17, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-27-15,
relating to allowing schools licensed to provide barber, cosmetology and related training to hold theory classes and clinical classes at separate locations; and prohibiting schools licensed to provide barber, cosmetology and related training from being established within the same physical structure as a salon, spa, or similar business.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §30-27-15, to read as follows:

**ARTICLE 27. BOARD OF BARBERS AND COSMETOLOGISTS.**

§30-27-15. Schools may provide certain classes at different locations.

1 A licensed school may provide clinical instruction and theory instruction in separate locations. Any school authorized under this article cannot be established within the same physical structure as a salon, spa or similar business licensed under W. Va. Code §30-27-17.

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**CHAPTER 182**

*(Com. Sub. for S. B. 350 - By Senator Blair)*

[Passed April 4, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 18, 2017.]

AN ACT to amend and reenact §30-31-3, §30-31-6, §30-31-8 and §30-31-9 of the Code of West Virginia, 1931, as amended, all relating to licenses and temporary permits for licensure for professional counselors and marriage and family therapists.
Be it enacted by the Legislature of West Virginia:

That §30-31-3, §30-31-6, §30-31-8 and §30-31-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 31. LICENSED PROFESSIONAL COUNSELORS.

§30-31-3. Definitions.

As used in this article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

(a) “Applicant” means a person making an application for a license or renewal under the provisions of this article.

(b) “Board” means the West Virginia Board of Examiners in Counseling.

(c) “Clinical counseling procedures” means an approach to counseling that emphasizes the counselor's role in systematically assisting clients through all of the following including, but are not limited to, observing, assessing and analyzing background and current information; utilizing assessment techniques useful in appraising aptitudes, abilities, achievements, interests or attitudes; diagnosing; and developing a treatment plan. The goal of these procedures is the prevention or elimination of symptomatic, maladaptive or undesired behavior, cognitions or emotions in order to integrate a wellness, preventative, pathology and multicultural model of human behavior to assist an individual, couple, family, group of individuals, organization, institution or community to achieve mental, emotional, physical, social, moral, educational, spiritual, vocational or career development and adjustment through the life span of the individual, couple, family, group of individuals, organization, institution or community.
(d) “Licensed professional counselor” means a person licensed under the provisions of this article to practice professional counseling.

(e) “Licensee” means a person holding a license issued under the provisions of this article.

(f) “Licensed marriage and family therapist” means a person licensed under the provisions of this article to practice marriage and family therapy.

(g) “Marriage and family therapy” means the diagnosis and treatment of mental and emotional disorders, whether cognitive, affective or behavioral, specifically within the context of marriage and family systems, that involve the professional application of theories and techniques to individuals, couples and families, singly or in groups.

(h) “Permit” means a temporary permit to practice professional counseling or marriage and family therapy issued by the board under the provisions of this article.

(i) “Permittee” means a person holding a temporary permit under the provisions of this article.

(j) “Professional counseling” means the assessment, diagnosis, treatment and prevention of mental, emotional or addiction disorders through the application of clinical counseling procedures. Professional counseling includes the use of psychotherapy, assessment instruments, counseling, consultation, treatment planning and supervision in the delivery of services to individuals, couples, families and groups.

§30-31-6. Rulemaking.

(a) The board shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article, including:
(1) Standards and requirements for licenses to practice professional counseling and marriage and family therapy;

(2) Procedures for examinations and reexaminations;

(3) Requirements for third parties to prepare and/or administer examinations and reexaminations;

(4) Educational and experience requirements;

(5) The passing grade on the examination;

(6) Standards for approval of courses;

(7) Procedures for the issuance and renewal of a license or permit;

(8) A fee schedule;

(9) Continuing education requirements for licensees;

(10) The procedures for denying, suspending, revoking, reinstating or limiting the practice of a licensee;

(11) Requirements to reinstate a revoked license;

(12) Specific master's and doctoral degree programs considered to be equivalent to a master's or doctoral degree program required under this article;

(13) The nature of supervised professional experience approved by the board for the purposes of licensure of this article;

(14) A code of ethics; and

(15) Any other rules necessary to effectuate the provisions of this article.

(b) All of the board’s rules in effect on July 1, 2009, shall remain in effect until they are amended or repealed and references to provisions of former enactments of this article are interpreted to mean provisions of this article.
§30-31-8. Requirements for license to practice counseling.

(a) To be eligible for a license to practice professional counseling, an applicant must:

1. Be of good moral character;
2. Be at least eighteen years of age;
3. Be a citizen of the United States or be eligible for employment in the United States;
4. Pay the applicable fee;
5. (A)(i) Have earned a master's degree in an accredited counseling program or in a field closely related to an accredited counseling program as determined by the board or have received training equivalent to such degree as may be determined by the board; and
   (ii) Have at least two years of supervised professional experience in counseling of such a nature as is designated by the board after earning a master’s degree or equivalent; or
6. (B)(i) Have earned a doctorate degree in an accredited counseling program or in a field closely related to an accredited counseling program as determined by the board or have received training equivalent to such degree as may be determined by the board; and
   (ii) Have at least one year of supervised professional experience in counseling of such a nature as is designated by the board after earning a doctorate degree or equivalent;
7. Have passed a standardized national certification examination in counseling approved by the board;
8. Not have been convicted of a felony or crime involving moral turpitude under the laws of any jurisdiction:
(A) If the applicant has never been convicted of a felony or a crime involving moral turpitude, the applicant shall submit letters of recommendation from three persons not related to the applicant and a sworn statement from the applicant stating that he or she has never been convicted of a felony or a crime involving moral turpitude; or

(B) If the applicant has been convicted of a felony or a crime involving moral turpitude, it is a rebuttable presumption that the applicant is unfit for licensure unless he or she submits competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensed professional counselor as may be established by the production of:

(i) Documentary evidence including a copy of the relevant release or discharge order, evidence showing compliance with all conditions of probation or parole, evidence showing that at least one year has elapsed since release or discharge without subsequent conviction, and letters of reference from three persons who have been in contact with the applicant since his or her release or discharge; and

(ii) Any collateral evidence and testimony as may be requested by the board which shows the nature and seriousness of the crime, the circumstances relative to the crime or crimes committed and any mitigating circumstances or social conditions surrounding the crime or crimes and any other evidence necessary for the board to judge present fitness for licensure or whether licensure will enhance the likelihood that the applicant will commit the same or similar offenses;

(8) Not be an alcohol or drug abuser as these terms are defined in section eleven, article one-a, chapter twenty-seven of this code: Provided, That an applicant who has had at least two continuous years of uninterrupted sobriety in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a twelve-step
program or other similar group or process, may be considered; and

(9) Has fulfilled any other requirement specified by the board.

(b) A person who holds a license or other authorization to practice counseling issued by another state, the qualifications for which license or other authorization are determined by the board to be at least substantially equivalent to the license requirements in this article, is eligible for licensure.

c) A person seeking licensure under the provisions of this section shall submit an application on a form prescribed by the board and pay all applicable fees. A person applying for licensure may elect for a temporary permit to utilize during the application process while the applicant takes the required examination. The temporary permit shall be valid for a period not to exceed six months and may not be renewed. The fee for the temporary permit is $50. The permittee shall be supervised by an approved licensed professional supervisor while practicing under the temporary permit. Supervision hours completed under the temporary permit count as supervised professional experience as required for licensure under this section. The supervision requirements are the same as required with a provisional license as defined in section six of this article. The temporary permit may be revoked at any time by a majority vote of the board.

d) A person who has been continually licensed under this article since 1987, pursuant to prior enactments permitting waiver of certain examination and other requirements, is eligible for renewal under the provisions of this article.

e) A license to practice professional counseling issued by the board prior to July 1, 2009, shall for all purposes be considered a license issued under this article: Provided,
That a person holding a license issued prior to July 1, 2009, must renew the license pursuant to the provisions of this article.

§30-31-9. Requirements for a license to practice marriage and family therapy.

(a) To be eligible for a license to practice marriage and family therapy, an applicant must:

(1) Be of good moral character;

(2) Be at least eighteen years of age;

(3) Be a citizen of the United States or be eligible for employment in the United States;

(4) Pay the applicable fee;

(5)(A)(i) Have earned a master's degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, the Council for Accreditation of Counseling and Related Education Programs, or a comparable accrediting body as approved by the board, or in a field closely related to an accredited marriage and family therapy program as determined by the board, or have received training equivalent to such degree as may be determined by the board; and

(ii) Have at least two years of supervised professional experience in marriage and family therapy of such a nature as is designated by the board after earning a master's degree or equivalent; or

(B)(i) Have earned a doctorate degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, the Council for Accreditation of Counseling and Related Education Programs, or a comparable accrediting body as approved by the board, or
in a field closely related to an accredited marriage and family therapy program as determined by the board, or have received training equivalent to such degree as may be determined by the board; and

(ii) Have at least one year of supervised professional experience in marriage and family therapy of such a nature as is designated by the board after earning a doctorate degree or equivalent;

(6) Have passed a standardized national certification examination in marriage and family therapy as approved by the board;

(7) Not have been convicted of a felony or crime involving moral turpitude under the laws of any jurisdiction:

(A) If the applicant has never been convicted of a felony or a crime involving moral turpitude, the applicant shall submit letters of recommendation from three persons not related to the applicant and a sworn statement from the applicant stating that he or she has never been convicted of a felony or a crime involving moral turpitude; or

(B) If the applicant has been convicted of a felony or a crime involving moral turpitude, it is a rebuttable presumption that the applicant is unfit for licensure unless he or she submits competent evidence of sufficient rehabilitation and present fitness to perform the duties of a person licensed to practice marriage and family therapy as may be established by the production of:

(i) Documentary evidence including a copy of the relevant release or discharge order, evidence showing compliance with all conditions of probation or parole, evidence showing that at least one year has elapsed since release or discharge without subsequent conviction, and letters of reference from three persons who have been in contact with the applicant since his or her release or discharge; and
(ii) Any collateral evidence and testimony as may be requested by the board which shows the nature and seriousness of the crime, the circumstances relative to the crime or crimes committed and any mitigating circumstances or social conditions surrounding the crime or crimes, and any other evidence necessary for the board to judge present fitness for licensure or whether licensure will enhance the likelihood that the applicant will commit the same or similar offenses;

(8) Not be an alcohol or drug abuser as these terms are defined in section eleven, article one-a, chapter twenty-seven of this code: Provided, That an applicant who has had at least two continuous years of uninterrupted sobriety in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a twelve-step program or other similar group or process, may be considered; and

(9) Has fulfilled any other requirement specified by the board.

(b) A person who holds a license or other authorization to practice marriage and family therapy issued by another state, the qualifications for which license or other authorization are determined by the board to be at least substantially equivalent to the license requirements in this article, is eligible for licensure.

(c) A person seeking licensure under the provisions of this section shall submit an application on a form prescribed by the board and pay all applicable fees. A person applying for licensure may elect for a temporary permit to utilize during the application process while the applicant takes the required examination. The temporary permit shall be valid for a period not to exceed six months and may not be renewed. The fee for the temporary permit is $50. The permittee shall be supervised by an approved licensed professional supervisor while practicing under the temporary permit. Supervision hours completed under the
temporary permit count as supervised professional
experience as required for licensure under this section. The
supervision requirements are the same as required with a
provisional license as defined in section six of this article.
The temporary permit may be revoked at any time by a
majority vote of the board.

(d) A person who is licensed for five years as of July 1, 2010, and has substantially similar qualifications as
required by subdivisions (1), (2), (3), (4), (5)(A)(i) or
(5)(B)(i), (7) and (8), subsection (a) of this section is eligible
for a license to practice marriage and family therapy until
July 1, 2012, and is eligible for renewal under section ten of
this article.

CHAPTER 183

(Com. Sub. for S. B. 523 - By Senator Weld)

[Passed April 8, 2017; in effect from passage.]
[Approved by the Governor on April 24, 2017.]

AN ACT to amend and reenact §4-2A-2 of the Code of West
Virginia, 1931, as amended; to amend and reenact §11B-2-12
of said code; to amend and reenact §12-3-12a and §12-3-13b
of said code; to amend and reenact §15-2-5 of said code; to
amend and reenact §18-3-1 of said code; to amend and reenact
§20-1-5 of said code; to amend and reenact §20-7-1 of said
code; to amend and reenact §22C-1-4 of said code; to amend
and reenact §24-1-3 of said code; to amend and reenact
§24A-6-6 of said code; to amend and reenact §24B-5-2 of said
code; to amend and reenact §25-1-19 of said code; to amend
and reenact §31-19-4 of said code; to amend and reenact
§33-2-2 of said code; to amend and reenact §50-1-8 and
§50-1-9 of said code; to amend and reenact §51-7-3 and
§51-7-5 of said code; to amend and reenact §51-8-2 of said
code; and to amend and reenact §62-12-5 of said code, all relating to converting to a biweekly pay cycle from a monthly or semimonthly cycle for state employees; modifying pay cycle of members of the legislature; submitting expenditure schedules to the Secretary of the Department of Revenue; modifying pay cycle of employees of the Higher Education Policy Commission, Council for Community and Technical College Education and institutions which they govern; modifying pay cycle of the West Virginia State Police; modifying pay cycle of the State Superintendent of Schools; modifying pay cycle of the Division of Natural Resources; modifying pay cycle of the Water Development Authority; modifying pay cycle of the Public Service Commission; modifying pay cycle of the Division of Corrections; modifying pay cycle of West Virginia Community Infrastructure Authority; modifying pay cycle of the Insurance Commissioner; modifying pay cycle of magistrate courts; modifying pay cycle of official court reporters; modifying pay cycle of state law librarian and assistants; and modifying pay cycle of probation officers and clerical assistants.

Be it enacted by the Legislature of West Virginia:

That §4-2A-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11B-2-12 of said code be amended and reenacted; that §12-3-12a and §12-3-13b of said code be amended and reenacted; that §15-2-5 of said code be amended and reenacted; that §18-3-1 of said code be amended and reenacted; that §20-1-5 of said code be amended and reenacted; that §20-7-1 of said code be amended and reenacted; that §22C-1-4 of said code be amended and reenacted; that §24-1-3 of said code be amended and reenacted; that §24A-6-6 of said code be amended and reenacted; that §24B-5-2 of said code be amended and reenacted; that §25-1-19 of said code be amended and reenacted; that §31-19-4 of said code be amended and reenacted; that §33-2-2 of said code be amended and reenacted; that §50-1-8 and §50-1-9 of said code be amended and reenacted; that §51-7-3 and §51-7-5 of said code be amended and reenacted; that §51-8-2 of said code be amended and reenacted; and that
§62-12-5 of said code be amended and reenacted, all to read as follows:

CHAPTER 4. THE LEGISLATURE.

ARTICLE 2A. COMPENSATION FOR AND EXPENSES OF MEMBERS OF THE LEGISLATURE.

§4-2A-2. Basic compensation for services; proration.

(a) Beginning in the calendar year 2009 and for each calendar year after that, each member of the Legislature shall receive as basic compensation for his or her services the sum of $20,000 per calendar year, to be paid as provided in subsection (b) of this section. In addition to the basic compensation, members shall receive the additional compensations as are expressly provided in sections three, four and five of this article. All other increased amounts or new amounts in respect to the compensation of members of the Legislature, set forth in the resolution of the Citizens Legislative Compensation Commission, dated January 9, 2007, and implemented in sections two, four, six and eight of this article providing for new amounts or amounts increased to new amounts greater than those in force and effect on January 1, 2007, become effective for calendar year 2009 and each calendar year after that: Provided, That increased amounts or new amounts in respect to the expenses of members of the Legislature, set forth in said resolution, and implemented in sections six and eight of this article providing for new amounts or amounts increased to new amounts greater than those in force and effect on January 1, 2007, become effective for calendar year 2008 and each calendar year after that.

(b) The basic compensation is payable as follows:

(1) In the year 2009, and every fourth year after that:

(A) Five thousand dollars in each of February, March and April, payable at least twice per month; and
(B) Six hundred twenty-five dollars in each of January, May, June, July, August, September, October and November, payable at least twice per month;

(2) Beginning in 2010, in all years except those described in subdivision (1) of this subsection:

(A) Five thousand dollars in each of January, February and March, payable at least twice per month; and

(B) Six hundred twenty-five dollars in each of April, May, June, July, August, September, October and November, payable at least twice per month.

(c) In the event of the death, resignation or removal of a member of the Legislature and the appointment and qualification of his or her successor, the compensation provided in this section for the month in which the death, resignation or removal of the member of the Legislature occurs shall be prorated between the original member and his or her successor on the basis of the number of days served, including Saturdays and Sundays in the month.

CHAPTER 11B. DEPARTMENT OF REVENUE.

ARTICLE 2. STATE BUDGET OFFICE.

§11B-2-12. Submission of expenditure schedules; contents; submission of information on unpaid obligations; copies to Legislative Auditor.

(a) Prior to the beginning of each fiscal year, the spending officer of a spending unit shall submit to the secretary a detailed expenditure schedule for the ensuing fiscal year. The schedule shall be submitted in such form and at such time as the secretary may require. The schedule shall show:

(1) A proposed biweekly rate of expenditure for amounts appropriated for personal services;
(2) Each and every position budgeted under personal services for the next ensuing fiscal year, with the biweekly salary or compensation of each position;

(3) A proposed quarterly rate of expenditure for amounts appropriated for employee benefits, current expenses, equipment and repairs and alterations classified by a uniform system of accounting as called for in section twenty-five of this article for each item of every appropriation;

(4) A proposed yearly plan of expenditure for amounts appropriated for buildings and lands; and

(5) A proposed quarterly plan of receipts itemized by type of revenue.

(b) The secretary may accept a differently itemized expenditure schedule from a spending unit to which the above itemizations are not applicable.

(c) The secretary shall consult with and assist spending officers in the preparation of expenditure schedules.

(d) Within fifteen days after the end of each month of the fiscal year, the head of every spending unit shall certify to the Legislative Auditor the status of obligations and payments of the spending unit for amounts of employee benefits, including, but not limited to, obligations and payments for social security withholding and employer matching, public employees’ insurance premiums and public employees’ retirement and Teachers Retirement Systems.

(e) In the event the Legislative Auditor determines from certified reports or from other sources that any spending unit is not making all payments and transfers for employee benefits from funds appropriated for that purpose, the Legislative Auditor shall notify the secretary of administration, Auditor and Treasurer of the determination and thereafter no funds appropriated to the spending unit
shall be encumbered or expended for the salary or compensation to the head of the spending unit until the Legislative Auditor determines that the payments or transfers are being made on a timely basis.

(f) When a spending officer submits an expenditure schedule to the secretary as required by this section, the spending officer shall at the same time transmit a copy thereof to the Legislative Auditor and the Joint Committee on Government and Finance or its designee. If a spending officer of a spending unit fails to transmit a copy to the Legislative Auditor on or before the beginning of the fiscal year, the Legislative Auditor shall notify the secretary, Auditor and Treasurer of the failure and thereafter no funds appropriated to the spending unit shall be encumbered or expended until the spending officer thereof has transmitted a copy to the Legislative Auditor.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.

§12-3-12a. Payment of salaries of employees of Higher Education Policy Commission, Council for Community and Technical College Education and institutions of higher education over the twenty-six biweekly pay cycle.

Notwithstanding the provisions of section twelve of this article, in the event that an employee of the Higher Education Policy Commission, Council for Community and Technical College Education or of any of the institutions which they govern elects to receive his or her salary over the complete twenty-six biweekly pay cycle, warrants may be drawn for the biweekly pay periods covering the months of July and August following the fiscal year during which such salary was earned: Provided, That such warrants have been encumbered by the commission, council or institution and the Budget Office prior to June 30 of said fiscal year.
§12-3-13b. Voluntary deductions by State Auditor from salaries of employees to pay association dues or fees and to pay supplemental health and life insurance premiums.

Any officer or employee of the State of West Virginia may authorize that a voluntary deduction from his or her net wages be made for the payment of membership dues or fees to an employee association. Voluntary deductions may also be authorized by an officer or employee for any supplemental health and life insurance premium, subject to prior approval by the Auditor. Such deductions shall be authorized on a form provided by the Auditor of the State of West Virginia and shall state: (a) The identity of the employee; (b) the amount and frequency of such deductions; and (c) the identity and address of the association or insurance company to which such dues shall be paid. Upon execution of such authorization and its receipt by the office of the Auditor, such deductions shall be made in the manner specified on the form and remitted to the designated association or insurance company on the tenth day of each month: Provided, That voluntary other deductions, as approved and authorized by the Auditor, may be made in accordance with rules proposed by the Auditor pursuant to article three, chapter twenty-nine-a of this code: Provided, however, That deductions shall be made at least twice monthly. Deduction authorizations may be revoked at any time thirty days prior to the date on which the deduction is regularly made and on a form to be provided by the office of the State Auditor: Provided further, That nothing in this section shall interfere with or remove any existing arrangement for dues deduction between an employer or any political subdivision of the state and its employees.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-5. Career progression system; salaries; exclusion from wages and hour law, with supplemental payment; bond; leave time for members called to duty in guard or reserves.
(a) The superintendent shall establish within the West Virginia State Police a system to provide for: The promotion of members to the supervisory ranks of sergeant, first sergeant, second lieutenant and first lieutenant; the classification of nonsupervisory members within the field operations force to the ranks of trooper, senior trooper, trooper first class or corporal; the classification of members assigned to the forensic laboratory as criminalist I-VIII; and the temporary reclassification of members assigned to administrative duties as administrative support specialist I-VIII.

(b) The superintendent may propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code for the purpose of ensuring consistency, predictability and independent review of any system developed under the provisions of this section.

(c) The superintendent shall provide to each member a written manual governing any system established under the provisions of this section and specific procedures shall be identified for the evaluation and testing of members for promotion or reclassification and the subsequent placement of any members on a promotional eligibility or reclassification recommendation list.

(d) Beginning on July 1, 2011, members shall receive annual salaries payable at least twice per month as follows:

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<thead>
<tr>
<th>ANNUAL SALARY SCHEDULE (BASE PAY)</th>
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<tr>
<td>SUPERVISORY AND NONSUPERVISORY RANKS</td>
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<tr>
<td>Cadet During Training..................$ 33,994</td>
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<td>Cadet Trooper After Training..............$ 41,258</td>
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<td>Trooper Second Year..........................42,266</td>
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<td>Trooper Third Year..........................42,649</td>
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<td>Classification</td>
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<tr>
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<td>Major</td>
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<td>Lieutenant Colonel</td>
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<tr>
<td>ADMINISTRATION SUPPORT SPECIALIST CLASSIFICATION</td>
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<td>VIII</td>
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<tr>
<td>CRIMINALIST CLASSIFICATION</td>
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</table>
Each member of the West Virginia State Police whose salary is fixed and specified in this annual salary schedule is entitled to the length of service increases set forth in subsection (e) of this section and supplemental pay as provided in subsection (g) of this section.

(e) Each member of the West Virginia State Police whose salary is fixed and specified pursuant to this section shall receive, and is entitled to, an increase in salary over that set forth in subsection (d) of this section for grade in rank, based on length of service, including that service served before and after the effective date of this section with the West Virginia State Police as follows: Beginning on January 1, 2015 and continuing thereafter, at the end of two years of service with the West Virginia State Police, the member shall receive a salary increase of $500 to be effective during his or her next year of service and a like increase at yearly intervals thereafter, with the increases to be cumulative.

(f) In applying the salary schedules set forth in this section where salary increases are provided for length of service, members of the West Virginia State Police in service at the time the schedules become effective shall be given credit for prior service and shall be paid the salaries
the same length of service entitles them to receive under the provisions of this section.

(g) The Legislature finds and declares that because of the unique duties of members of the West Virginia State Police, it is not appropriate to apply the provisions of state wage and hour laws to them. Accordingly, members of the West Virginia State Police are excluded from the provisions of state wage and hour law. This express exclusion shall not be construed as any indication that the members were or were not covered by the wage and hour law prior to this exclusion.

In lieu of any overtime pay they might otherwise have received under the wage and hour law, and in addition to their salaries and increases for length of service, members who have completed basic training and who are exempt from federal Fair Labor Standards Act guidelines may receive supplemental pay as provided in this section.

The authority of the superintendent to propose a legislative rule or amendment thereto for promulgation in accordance with article three, chapter twenty-nine-a of this code to establish the number of hours which constitute the standard pay period for the members of the West Virginia State Police is hereby continued. The rule shall further establish, on a graduated hourly basis, the criteria for receipt of a portion or all of supplemental payment when hours are worked in excess of the standard pay period. The superintendent shall certify at least twice per month to the West Virginia State Police’s payroll officer the names of those members who have worked in excess of the standard pay period and the amount of their entitlement to supplemental payment. The supplemental payment may not exceed $200 per pay period. The superintendent and civilian employees of the West Virginia State Police are not eligible for any supplemental payments.

(h) Each member of the West Virginia State Police, except the superintendent and civilian employees, shall
execute, before entering upon the discharge of his or her duties, a bond with security in the sum of $5,000 payable to the State of West Virginia, conditioned upon the faithful performance of his or her duties, and the bond shall be approved as to form by the Attorney General and as to sufficiency by the Governor.

(i) In consideration for compensation paid by the West Virginia State Police to its members during those members’ participation in the West Virginia State Police Cadet Training Program pursuant to section eight, article twenty-nine, chapter thirty of this code, the West Virginia State Police may require of its members by written agreement entered into with each of them in advance of such participation in the program that, if a member should voluntarily discontinue employment any time within one year immediately following completion of the training program, he or she shall be obligated to pay to the West Virginia State Police a pro rata portion of such compensation equal to that part of such year which the member has chosen not to remain in the employ of the West Virginia State Police.

(j) Any member of the West Virginia State Police who is called to perform active duty training or inactive duty training in the National Guard or any reserve component of the armed forces of the United States annually shall be granted, upon request, leave time not to exceed thirty calendar days for the purpose of performing the active duty training or inactive duty training and the time granted may not be deducted from any leave accumulated as a member of the West Virginia State Police.

CHAPTER 18. EDUCATION.

ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.

§18-3-1. Appointment; qualifications; compensation; traveling expenses; office and residence; evaluation.
There shall be appointed by the state board a State Superintendent of Schools who serves at the will and pleasure of the state board. He or she shall be a person of good moral character, shall be able to perform the duties listed in this article and possess such other educational, administrative, experiential and other qualifications as determined by the State Board of Education. He or she shall hold at least a master’s degree from a regionally accredited institution of higher education or equivalent degree as determined by the state board. He or she shall receive an annual salary set by the state board, to be paid at least twice per month. The state superintendent also shall receive necessary traveling expenses incident to the performance of his or her duties to be paid out of the General School Fund upon warrants of the State Auditor. The state superintendent shall have his or her office at the state Capitol. The state board shall report to the Legislative Oversight Commission on Education Accountability upon request concerning its progress during any hiring process for a state superintendent.

The state board annually shall evaluate the performance of the state superintendent and publicly announce the results of the evaluation.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

§20-1-5. Salary, expenses, oath and bond of director.

The director shall receive an annual salary as provided in section two-a, article seven, chapter six of this code, payable at least twice per month and shall be allowed and paid necessary expenses incident to the performance of his or her official duties. Prior to the assumption of the duties of his or her office, he or she shall take and subscribe to the oath required of public officers by the Constitution of West Virginia and shall execute a bond, with surety approved by the Governor, in the penal sum of $10,000, which executed
oath and bond shall be filed in the office of the Secretary of State. Premiums on the bond shall be paid from division funds.

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

§20-7-1. Chief natural resources police officer; natural resources police officers; special and emergency natural resources police officers; subsistence allowance; expenses.

(a) The division’s law-enforcement policies, practices and programs are under the immediate supervision and direction of the division law-enforcement officer selected by the director and designated as chief natural resources police officer as provided in section thirteen, article one of this chapter.

(b) Under the supervision of the director, the chief natural resources police officer shall organize, develop and maintain law-enforcement practices, means and methods geared, timed and adjustable to seasonal, emergency and other needs and requirements of the division’s comprehensive natural resources program. All division personnel detailed and assigned to law-enforcement duties and services under this section shall be known and designated as natural resources police officers and are under the immediate supervision and direction of the chief natural resources police officer except as otherwise provided. All natural resources police officers shall be trained, equipped and conditioned for duty and services wherever and whenever required by division law-enforcement needs. The chief natural resources police officer may also assign natural resources police officers to perform law-enforcement duties on any trail, grounds, appurtenant facility or other areas accessible to the public within the Hatfield-McCoy Recreation Area, under agreement that the Hatfield-McCoy Regional Recreation Authority, created pursuant to article fourteen of this chapter, shall reimburse the division for salaries paid to the officers and shall either
pay directly or reimburse the division for all other expenses
determined by the chief natural resources police officer.

(c) The chief natural resources police officer, acting
under supervision of the director, is authorized to select and
appoint emergency natural resources police officers for a
limited period for effective enforcement of the provisions of
this chapter when considered necessary because of
emergency or other unusual circumstances. The emergency
natural resources police officers shall be selected from
qualified civil service personnel of the division, except in
emergency situations and circumstances when the director
may designate officers, without regard to civil service
requirements and qualifications, to meet law-enforcement
needs. Emergency natural resources police officers shall
exercise all powers and duties prescribed in section four of
this article for full-time salaried natural resources police
officers except the provisions of subdivision (8), subsection
(b) of said section.

(d) The chief natural resources police officer, acting
under supervision of the director, is also authorized to select
and appoint as special natural resources police officers any
full-time civil service employee who is assigned to, and has
direct responsibility for management of, an area owned,
leased or under the control of the division and who has
satisfactorily completed a course of training established and
administered by the chief natural resources police officer,
when the action is considered necessary because of
law-enforcement needs. The powers and duties of a special
natural resources police officer, appointed under this
provision, is the same within his or her assigned area as
prescribed for full-time salaried natural resources police
officers. The jurisdiction of the person appointed as a
special natural resources police officer, under this provision,
shall be limited to the division area or areas to which he or
she is assigned and directly manages.
(e) The Director of the Division of Forestry is authorized to appoint and revoke Division of Forestry special natural resources police officers who are full-time civil service personnel who have satisfactorily completed a course of training as required by the Director of the Division of Forestry. The jurisdiction, powers and duties of Division of Forestry special natural resources police officers are set forth by the Director of the Division of Forestry pursuant to article three of this chapter and articles one-a and one-b, chapter nineteen of this code.

(f) The chief natural resources police officer, with the approval of the director, has the power and authority to revoke any appointment of an emergency natural resources police officer or of a special natural resources police officer at any time.

(g) Natural resources police officers are subject to seasonal or other assignment and detail to duty whenever and wherever required by the functions, services and needs of the division.

(h) The chief natural resources police officer shall designate the area of primary residence of each natural resources police officer, including himself or herself. Since the area of business activity of the division is actually anywhere within the territorial confines of the State of West Virginia, actual expenses incurred shall be paid whenever the duties are performed outside the area of primary assignment and still within the state.

(i) Natural resources police officers shall receive, in addition to their base pay salary, a minimum biweekly subsistence allowance for their required telephone service, dry cleaning or required uniforms, and meal expenses while performing their regular duties in their area of primary assignment in the amount of $60 per biweekly pay. This subsistence allowance does not apply to special or emergency natural resources police officers appointed under this section.
(j) After June 30, 2010, all those full-time law-enforcement officers employed by the Division of Natural Resources as conservation officers shall be titled and known as natural resources police officers. Wherever used in this code the term “conservation officer”, or its plural, means “natural resources police officer”, or its plural, respectively.

(k) Notwithstanding any provision of this code to the contrary, the provisions of subdivision (6), subsection c, section twelve, article twenty-one, chapter eleven of this code are inapplicable to pensions of natural resources police officers paid through the Public Employees Retirement System.

CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS, AUTHORITIES, COMMISSIONS AND COMPACTS.

ARTICLE 1. WATER DEVELOPMENT AUTHORITY.

§22C-1-4. Water Development Authority; Water Development Board; organization of authority and board; appointment of board members; their term of office, compensation and expenses; Director of Authority; compensation.

(a) The Water Development Authority is continued. The authority is a governmental instrumentality of the state and a body corporate. The exercise by the authority of the powers conferred by this article and the carrying out of its purposes and duties are essential governmental functions and for a public purpose.

(b) The authority is controlled, managed and operated by a seven-member board known as the Water Development Board. The Governor or designee, the secretary of the Department of Environmental Protection or designee and the Commissioner of the Bureau for Public Health or designee are members ex officio of the board. Four members are appointed by the Governor, by and with the advice and consent of the Senate, for six-year terms, which
are staggered in accordance with the initial appointments under prior enactment of this section. In the event of a vacancy, appointments are filled in the same manner as the original appointment for the remainder of the unexpired term. A member continues to serve until the appointment and qualification of the successor. More than two appointed board members may not at any one time belong to the same political party. Appointed board members may be reappointed to serve additional terms.

(c) All members of the board shall be citizens of the state. Each appointed member of the board, before entering upon his or her duties, shall comply with the requirements of article one, chapter six of this code and give bond in the sum of $25,000 in the manner provided in article two of said chapter. The Governor may remove any board member for cause as provided in article six of said chapter.

(d) The Governor or designee serves as chair. The board annually elects one of its appointed members as vice chair and appoints a secretary-treasurer, who need not be a member of the board. Four members of the board is a quorum and the affirmative vote of four members is necessary for any action taken by vote of the board. A vacancy in the membership of the board does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board and the authority. The person appointed as secretary-treasurer, including a board member if so appointed, shall give bond in the sum of $50,000 in the manner provided in article two, chapter six of this code.

(e) The Governor or designee, the Secretary of the Department of Environmental Protection and the Commissioner of the Bureau for Public Health do not receive compensation for serving as board members. Each appointed member receives an annual salary of $12,000, payable at least twice per month. Each of the seven board members is reimbursed for all reasonable and necessary expenses actually incurred in the performance of duties as a
member of the board in a manner consistent with guidelines of the Travel Management Office of the Department of Administration. All expenses incurred by the board are payable solely from funds of the authority or from funds appropriated for that purpose by the Legislature. Liability or obligation is not incurred by the authority beyond the extent to which moneys are available from funds of the authority or from such appropriations.

(f) There is a director of the authority appointed by the Governor, with the advice and consent of the Senate, who serves at the Governor’s will and pleasure. The director is responsible for managing and administering the daily functions of the authority and for performing other functions necessary to the effective operation of the authority. The compensation of the director is fixed annually by the board.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 1. GENERAL PROVISIONS.

§24-1-3. Commission continued; membership; chairman; compensation; quorum.

(a) The Public Service Commission of West Virginia is continued and directed as provided by this chapter, chapter twenty-four-a, chapter twenty-four-b and chapter twenty-four-d of this code. The Public Service Commission may sue and be sued by that name.

(b) The Public Service Commission shall consist of three members who shall be appointed by the Governor, with the advice and consent of the Senate. The commissioners shall be citizens and residents of this state and at least one of them shall be duly licensed to practice law in West Virginia, with not less than ten years’ actual work experience in the legal profession as a member of a State Bar.
(c) No more than two of the commissioners shall be members of the same political party.

(d) Each commissioner shall, before entering upon the duties of his or her office, take and subscribe to the oath provided by section five, article IV of the Constitution of West Virginia. The oath shall be filed in the office of the Secretary of State.

(e) The Governor shall designate one of the commissioners to serve as chairman at the Governor's will and pleasure. The chairman shall be the chief administrative officer of the commission. The Governor may remove any commissioner only for incompetency, neglect of duty, gross immorality, malfeasance in office or violation of subsections (g) and (h) of this section.

(f) Upon expiration of the terms, appointments are for terms of six years, except that an appointment to fill a vacancy is for the unexpired term only.

(g) No person while in the employ of, or holding any official relation to, any public utility subject to the provisions of this chapter or holding any stocks or bonds of a public utility subject to the provisions of this chapter or who is pecuniarily interested in a public utility subject to the provisions of this chapter may serve as a member of the commission or as an employee of the commission.

(h) Nor may any commissioner be a candidate for or hold public office or be a member of any political committee while acting as a commissioner; nor may any commissioner or employee of the commission receive any pass, free transportation or other thing of value, either directly or indirectly, from any public utility or motor carrier subject to the provisions of this chapter. In case any of the commissioners becomes a candidate for any public office or a member of any political committee, the Governor shall remove him or her from office and shall appoint a new commissioner to fill the vacancy created.
(i) The annual salary of each commissioner provided in section two-a, article seven, chapter six of this code shall be paid at least twice per month from the special funds in the percentages that follow:

(1) From the Public Service Commission Fund collected under the provisions of section six, article three of this chapter, eighty percent;

(2) From the Public Service Commission Motor Carrier Fund collected under the provisions of section six, article six, chapter twenty-four-a of this code, seventeen percent; and

(3) From the Public Service Commission Gas Pipeline Safety Fund collected under the provisions of section three, article five, chapter twenty-four-b of this code, three percent.

(j) In addition to the salary provided for all commissioners in section two-a, article seven, chapter six of this code, the chairman of the commission shall receive $5,000 per annum to be paid at least twice per month from the Public Service Commission Fund collected under the provisions of section six, article three of this chapter.

CHAPTER 24A. COMMERCIAL MOTOR CARRIERS.

ARTICLE 6. DUTIES AND PRIVILEGES OF MOTOR CARRIERS SUBJECT TO REGULATION OF THE COMMISSION.

§24A-6-6. Special annual assessment against motor carriers for expenses of administering chapter; Public Service Commission Motor Carrier Fund.

In addition to the license fees, registration fees, or any other taxes required by law to be collected from motor carriers subject to this chapter, each such motor carrier shall be subject to, and shall pay to the Public Service Commission, a special annual assessment for the purpose of
paying the salaries, compensation, costs and expenses of administering and enforcing this chapter. All proceeds or funds derived from such assessment shall be paid into the State Treasury and credited to a special fund, designated Public Service Commission Motor Carrier Fund, to be appropriated as provided by law for the purposes herein stated. Each member of the commission shall receive a salary in the amount set forth in section three, article one, chapter twenty-four of this code as compensation for the administration of this chapter in addition to all other salary or compensation otherwise provided by law, to be paid from said fund at least twice per month. The special assessment against each motor carrier shall be apportioned upon the number and capacity of motor vehicles used by said carrier, computed as hereinafter provided.

(a) For each uniform identification card .............$ 3.00
(b) Upon each power unit of such carriers of property, in accordance with its capacity as rated by its manufacturer, in addition to amount of subdivision (a):

- of one ton or less capacity. ..................................$ 9.00
- of over one to one and one-half tons capacity ...... 13.50
- of over one and one-half tons to two
  tons capacity ............................................... 18.00
- of over two tons to three tons capacity ............ 22.50
- of over three tons to four tons capacity .......... 27.00
- of over four tons to five tons capacity .......... 31.50
- of over five tons to six tons capacity .......... 36.00
- of over six tons to seven tons capacity .......... 40.50
- of over seven tons to eight tons capacity .......... 45.00
- of over eight tons to nine tons capacity .......... 49.50
of over nine tons to ten tons capacity .................. 54.00
of over ten tons capacity, $54.00 plus $4.50 for each additional ton of capacity in excess of ten tons.

(c) Upon each trailer and semitrailer of such carriers of property, in accordance with its capacity as rated by its manufacturer, in an amount of two thirds of the amount provided for vehicles of its capacity in subdivision (b) of this section.

(d) Upon each power unit of such carriers of passengers, in accordance with the seating capacity thereof, in addition to amount in subdivision (a):

of ten passengers or less ..................................... $13.50
of eleven to twenty passengers, inclusive ............. 22.50
of twenty-one to thirty passengers, inclusive ...... 31.50
of thirty-one to forty passengers, inclusive .......... 45.00
of over forty passengers ........................................ 54.00

(e) The annual assessment of each motor carrier shall be paid on or before July 1 of each year. Additional assessments shall be collected upon the placing in use of any additional motor vehicle: Provided, That such additional assessments shall be subject to a reduction in the amounts shown in subdivisions (b), (c) and (d) of this section corresponding to the unexpired quarterly periods of the fiscal year, but shall not in any event be less than one fourth of such amount plus the sum of $3 provided in subdivision (a) of this section.

(f) Upon payment by any motor carrier of the assessment provided for, the Public Service Commission shall advise the Division of Motor Vehicles by notice in writing that such assessment has been paid, whereupon the
Division of Motor Vehicles may issue motor vehicle license for the vehicles described in said notice.

(g) Prior to the beginning of any fiscal year the Public Service Commission, after taking into consideration any unexpended balance in the Motor Carrier Fund, the probable receipts to be received in the ensuing fiscal year, and the probable costs of administering and enforcing this chapter for the ensuing fiscal year, may fix the assessments provided for in this section for the ensuing fiscal year in amounts which, in the commission’s judgment, will produce sufficient revenue to administer and enforce this chapter for said fiscal year: Provided, That in no event shall such assessments exceed the amounts set up in this section.

CHAPTER 24B. GAS PIPELINE SAFETY.

ARTICLE 5. EMPLOYEES OF COMMISSION; FUNDING.

§24B-5-2. Compensation to commissioners.

Each member of the commission shall receive a salary in the amount set forth in section three, article one, chapter twenty-four of this code as compensation for the administration of this chapter in addition to all other salary or compensation otherwise provided for by law, to be paid at least twice per month from the Public Service Commission Pipeline Safety Fund.

CHAPTER 25. DIVISION OF CORRECTIONS.

ARTICLE 1. ORGANIZATION, INSTITUTIONS AND CORRECTIONS MANAGEMENT.

§25-1-19. Reports by Commissioner of Corrections and chief officers of institutions to Auditor.

The Commissioner of Corrections shall, from time to time, as may be necessary, make a report to the Auditor, which shall state the name of each person employed at any of the institutions named in section three of this article, his or her official designation and biweekly rate of
compensation, and out of what funds or appropriation the same is payable. The chief officer of any such institution, or other person who may have been appointed for the purpose by the Commissioner of Corrections, shall make out and certify to the Auditor at the end of each month a list of persons to whom any payments may be due, stating for what purpose due, the amount due each person, and the fund or appropriation from which payable; one copy whereof shall be filed in the office of the institution where made, and one in the office of the Commissioner of Corrections. If the Auditor finds such list correct and in accordance with the reports made to him or her by the Commissioner of Corrections, he or she may pay to the persons entitled thereto the amounts so certified as due each.

CHAPTER 31. CORPORATIONS.

ARTICLE 19. WEST VIRGINIA COMMUNITY INFRASTRUCTURE AUTHORITY.

§31-19-4. West Virginia Community Infrastructure Authority created; West Virginia Community Infrastructure Board created; organization of Authority and Board; appointment of board members; their term of office, compensation and expenses; duties and responsibilities of director and staff of authority.

(a) There is hereby created the West Virginia Community Infrastructure Authority. The authority is a governmental instrumentality of the state and a body corporate. The exercise by the authority of the powers conferred by this article and the carrying out of its purposes and duties are essential governmental functions and for a public purpose.

The authority shall be controlled, managed and operated by the five-member board known as the West Virginia Community Infrastructure Board, which is hereby created. The Director of the West Virginia Development Office, or her or his designee, the Director of the Division of
Environmental Protection, or her or his designee, and the Commissioner of the Division of Highways, or her or his designee, are members ex officio of the board. The Executive Director of the West Virginia Development Office, or her or his designee, is the ex officio chair. Two members of the board shall be representative of the general public, one of which shall have had experience or a demonstrated interest in local government. The two members who are not ex officio members of the board shall be appointed by the Governor, by and with the advice and consent of the Senate, for initial terms of three and six years, respectively. The successor of each such appointed member shall be appointed for a term of six years in the same manner as the original appointments were made, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which her or his predecessor was appointed shall be appointed only for the remainder of such term. Each board member shall serve until the appointment and qualification of her or his successor. The two appointed board members shall not at any one time belong to the same political party. Appointed board members may be reappointed to serve additional terms, not to exceed two consecutive full terms. All members of the board shall be citizens of the state. Each appointed member of the board, before entering upon her or his duties, shall comply with the requirements of article one, chapter six of this code and give bond in the sum of $20,000 in the manner provided in article two, chapter six of this code. The Governor may remove any board member for cause as provided in article six, chapter six of this code.

Annually the board shall elect one of its appointed members as chair, and shall appoint a secretary-treasurer, who need not be a member of the board. Three members of the board is a quorum and the affirmative vote of three members is necessary for any action taken by vote of the board. No vacancy in the membership of the board impairs the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board and the authority.
The person appointed as secretary-treasurer, including a board member if she or he is so appointed, shall give bond in the sum of $50,000 in the manner provided in article two, chapter six of this code.

The Executive Director of the West Virginia Development Office or her or his designee, the Director of the Division of Environmental Protection or her or his designee, and the Commissioner of the Division of Highways or her or his designee, shall not receive any compensation for serving as board members. Each of the two appointed board members of the board shall receive an annual salary of $5,000, payable at least twice per month. Each of the five board members shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of her or his duties as a member of such board. All such expenses incurred by the board are payable solely from funds of the authority or from funds appropriated for such purpose by the Legislature and no liability or obligation shall be incurred by the authority beyond the extent for which moneys are available from funds of the authority or from such appropriations.

(b) There shall be a director of the authority appointed by the board who shall supervise and manage the Community Infrastructure Authority, and the West Virginia Development Office shall serve as the staff for the authority. Except as otherwise provided in this section, the duties and responsibilities of the director and of the staff shall be established by the authority. At the board’s discretion, it may provide for the position of general counsel, who shall be an employee of the authority, or for the appointment of special counsel. As the board deems necessary and desirable, it may at any time elect to change its decision on the employment or appointment of a counsel.

(c) The director, or her or his designee, may employ or appoint any staff members in addition to those provided by the West Virginia Development Office, including general or special counsel if the position is established by the board.
The number of employees needed, the positions to be filled and their salaries or wages shall be determined by the director with the approval of the board, unless the board elects to not require its approval. At any time the board may elect to change its decision concerning approval of additional staff hiring and salaries.

(d) The board shall meet at least quarterly, and more often as it deems necessary. The director and any other staff member or members as the director deems expedient shall attend board meetings.

CHAPTER 33. INSURANCE.

ARTICLE 2. INSURANCE COMMISSIONER.

§33-2-2. Compensation and expenses of commissioner and employees; location of office.

The commissioner shall receive an annual salary as provided in section two-a, article seven, chapter six of this code and actual expenses incurred in the performance of official business, which compensation shall be in full for all services. The office of the commissioner shall be maintained in the Capitol or other suitable place in Charleston. The commissioner may employ such persons and incur such expenses as may be necessary in the discharge of his or her duties and shall fix the compensation of such employees, but such compensation shall not exceed the appropriation therefor. The commissioner may reimburse employees for reasonable expenses incurred for job-related training and educational seminars and courses. All compensation for salaries and expenses of the commissioner and his or her employees shall be paid at least twice per month out of the State Treasury by requisition upon the Auditor, properly certified by the commissioner.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 1. COURTS AND OFFICERS.
§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.

(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.


(a) In each county there shall be one magistrate assistant
for each magistrate. 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. 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. 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.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 7. OFFICIAL REPORTERS.

§51-7-3. Compensation for attending court and taking notes.

The official reporter shall receive, for his or her services and expenses in attending the court or judge and in taking the notes provided for in section two of this article, such salary or other compensation as the court or judge, in accordance with the rules of the Supreme Court of Appeals, may allow. If such salary be allowed, it shall be paid at least twice per month, out of the State Treasury. If no such salary be allowed, such other compensation and expenses as may be allowed in civil cases shall be certified by the court or judge to the Auditor and the same shall be paid out of the State Treasury. Such other compensation and expenses in
felony and, misdemeanor cases shall be certified to the
Auditor and paid out of the State Treasury. The salary or
other compensation provided for in this section shall not be
deemed to include the making of typewritten transcripts as
provided for in section four of this article.

§51-7-5. Salary in lieu of all other compensation.

If neither of the methods of compensation provided for
in section three of this article be adopted, a salary may be
allowed in lieu of all other compensation, which shall be
paid at least twice per month, out of the State Treasury, in
such proportions as the court or judge may fix in accordance
with the rules of the Supreme Court of Appeals. All fees for
services rendered by the official reporter in the discharge of
his or her duties as such, when he or she is allowed a salary
under the provisions of this section, may be collected, and
shall, when collected by the sheriff or official reporter, be
paid into the State Treasury; and it shall be the duty of such
reporter to make out, sign and deliver to the sheriff a fee bill
in every case, civil or criminal, giving the style thereof and
the amount due, and from whom, which amount may be
collected or levied for by the sheriff, and such fee bill shall
have the force and effect of an execution when levied. An
official reporter compensated under the provisions of this
section shall collect the fees mentioned in section four of
this article for any transcript of his or her shorthand notes of
the testimony or proceedings furnished by him or her to any
party, and shall pay the same over to the sheriff of the
county in which the services were performed, to be by him
or her accounted for and paid into the State Treasury.

ARTICLE 8. STATE AND COUNTY LAW LIBRARIES;
LAW CLERKS.

§51-8-2. Librarian; bond; assistants; compensation.

The Supreme Court of Appeals, or the judges thereof in
vacation, shall appoint a competent librarian to have
immediate custody of the West Virginia Law Library under
the direction of the court. Such librarian shall give bond in
a penalty fixed by the court of not less than two nor more
than $5,000, with surety thereon, to be approved by the
court, and conditioned as provided for official bonds. Such
bond shall be deposited for safekeeping with the clerk of the
court. The librarian shall be an officer of the court and shall
hold his or her office and be removable at its pleasure.
Vacancies in the office of librarian occurring during
vacation of the court may be filled by appointment in
writing made by the judges of the court, or any three of
them. When, in the opinion of the court, other employees
are needed for the proper protection and use of the library,
it may employ such assistants as may be necessary for that
purpose. The salary of the librarian and assistants shall be
fixed by the court and shall be paid at least twice per month.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-5. Probation officers and assistants.

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

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

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

(d) No judge may appoint any probation officer, assistant
probation officer or clerical assistant who is related to him or her either by consanguinity or affinity.

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

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

(g) In order to carry out the supervision responsibilities
set forth in section twenty-six, article twelve, chapter
sixty-two of this code, the Administrative Director of the
Supreme Court of Appeals, or his or her designee, in
accordance with the court’s procedures, is authorized to hire
multijudicial-circuit probation officers, to be employed
through the court’s Division of Probation Services. Such
54 officers may also supervise probationers who are on 55 probation for sexual offences with the approval of the 56 administrative director of the Supreme Court of Appeals or 57 his or her designee.

CHAPTER 184

(Com. Sub. for H. B. 2006 - By Delegates Shott, Mr.  Speaker, Mr. Armstead, Hanshaw, Sobonya, Atkinson,  Hill, Fleischauer, Pushkin, Lovejoy and Canestraro)

[Passed April 5, 2017; in effect ninety days from passage.]  [Approved by the Governor on April 18, 2017.]

AN ACT to amend and reenact §6C-1-6 of the Code of West Virginia, 1931, as amended, relating to increasing the penalties for violating the Whistle-Blower Law; increasing the civil fine; clarifying that the civil fine is a personal liability; removing the authority of the court to suspend a person from public service; authorizing a Court’s finding of a violation to be deemed a finding of official misconduct and malfeasance in office; providing that a court finding of a violation may be relied upon as admissible evidence in any subsequent proceeding or petition to remove the person from public office; authorizing a Court’s finding of a violation to be relied upon by the public body as a basis to impose discipline upon an employee; and clarifying that a civil action, civil penalty or a court finding under this section is not a condition or prerequisite for a public body to take disciplinary action.

Be it enacted by the Legislature of West Virginia:

That §6C-1-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:
ARTICLE 1. WHISTLE-BLOWER LAW.

§6C-1-6. Civil penalty; termination from public service.

(a) A person who, as an employer or under color of an employer’s authority, violates this article is personally liable for a civil fine of not more than $5,000. A civil fine which is collected under this section shall be paid to the State Treasurer for deposit into the General Fund.

(b) In addition to subsection (a) of this section, and notwithstanding any provision in this code to the contrary, if the court specifically finds that the person, while in the employment of a public body, committed a violation of section three of this article with the intent to discourage the disclosure of information, such finding:

(1) shall be deemed a finding of official misconduct and malfeasance in office, and may be relied upon as admissible evidence in any subsequent proceeding or petition to remove the person from public office; and (2) may be relied upon by the public body as a basis to discipline the person, including, but not limited to, termination from employment: Provided, That nothing shall be construed as requiring a civil action, civil penalty or a court finding under this section as a condition or prerequisite for a public body to take disciplinary action against the person.

CHAPTER 185

(Com. Sub. for H. B. 2459 - By Delegates Ellington, Summers, Rohrbach and Hollen)

[Passed March 30, 2017; in effect from passage.]
[Approved by the Governor on April 10, 2017.]

AN ACT to repeal §16-2D-5f of the Code of West Virginia, 1931, as amended; to repeal §16-5F-1, §16-5F-2, §16-5F-3, §16-5F-
§16-5F-5, §16-5F-6 and §16-5F-7; to repeal §16-29B-6, §16-29B-7, §16-29B-9, §16-29B-10, §16-29B-11, §16-29B-17, §16-29B-18, §16-29B-22, §16-29B-23, §16-29B-24, §16-29B-25, §16-25B-27 and §16-29B-29; to repeal §16-29I-1, §16-29I-2, §16-29I-3, §16-29I-4, §16-29I-5, §16-29I-6, §16-29I-7, §16-29I-8, §16-29I-9 and §16-29I-10; to amend and reenact §5F-1-3a of said code; to amend and reenact §6-7-2a of said code; to amend and reenact §9-4C-7 and §9-4C-8 of said code; to amend and reenact §11-27-9 and §11-27-11 of said code; to amend and reenact §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-5, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-13, §16-2D-15 and §16-2D-16 of said code; to amend and reenact §16-5B-17 of said code; to amend and reenact §16-29B-2, §16-29B-3, §16-29B-5, §16-29B-8, §16-29B-12, §16-29B-26 and §16-29B-28; to amend said code by adding thereto a new section, designated §16-29B-5a; to amend said code by adding thereto a new section, designated §16-29B-30; to amend said code by adding thereto a new section, designated §16-29G-1a; to amend and reenact §16-29G-4 of said code; to amend and reenact §21-5F-4 of said code; to amend and reenact §33-4A-1, §33-4A-2, §33-4A-3, §33-4A-5, §33-4A-6 and §33-4A-7 of said code; and to amend and reenact §33-16D-16 of said code, all relating to regulation of health care; repealing redundant code section relative to neonatal abstinence facilities; repealing health care facility financial disclosure; repealing uniform system of financial reporting; repealing information gathering and coordination advisory group; updating the certificate of need process; placing certificate of need under Secretary of Department of Health and Human Resources; defining terms; adding exemptions to certificate of need; clarifying exemptions; modifying computed technology exemption from certificate of need; clarifying skilled nursing facility exemption for counties with no skilled nursing facility; allowing skilled nursing facility bed transfers; requiring skilled nursing facility beds retain identical certification status; clarifying appeals process; removing autonomy of
Health Care Authority; placing Health Care Authority under direct supervision of Secretary of the Department of Health and Human Resources; repealing unnecessary code sections made unnecessary with transfer to Department of Health and Human Resources; eliminating powers related to insurance policies and health organizations; modifying health care provider tax relative to rate review; eliminating public disclosure; eliminating granting authority; eliminating unnecessary penalties; eliminating unnecessary severability section; eliminating three full time board members; replacing existing board with a five member board; appointment of board members; setting out qualifications of board members; setting out terms of offices, filling of vacancies and oath for board members; providing for payment of board member expenses; providing for appointment of a chairman; setting out meeting requirements; creating the position of Executive Director; setting out power and duties of the Executive Director; setting compensation for the Executive Director; eliminating certain powers of the Health Care Authority; eliminating hospital and health care facility assessments; updating authority power relative to cooperative agreements; providing for transfer of necessary duties of Health Care Authority to Department of Health and Human Resources; requiring a transition plan; setting forth necessary elements of transition plan; allowing transfer of West Virginia Health Information Network to private entity; granting access to West Virginia Health Information Network to Secretary of Department of Health and Human Resources; providing for transfer of encumbered amounts of West Virginia Health Information Network to private entity upon transfer date; providing for administrative penalties for nurses overtime be paid into the general revenue fund; eliminating discretionary spending of Health Care Authority for amounts from penalties for violation of the nurse overtime act; substituting executive director of Health Care Authority or Secretary of Department of Health and Human Resources for chair of Health Care Authority in various code sections; transferring authority of
Health Care Authority regarding uninsured small group health benefit plans to the Insurance Commission; eliminating archaic revolving loan and grant fund; making conforming amendments; and setting effective dates.

Be it enacted by the Legislature of West Virginia:

That §16-2D-5f of the Code of West Virginia, 1931, as amended, be repealed; that §16-5F-1, §16-5F-2, §16-5F-3, §16-5F-4, §16-5F-5, §16-5F-6 and §16-5F-7 be repealed; that §16-29B-6, §16-29B-7, §16-29B-9, §16-29B-10, §16-29B-11, §16-29B-17, §16-29B-18, §16-29B-22, §16-29B-23, §16-29B-24, §16-29B-25, §16-25B-27 and §16-29B-29 be repealed; that §16-29I-2, §16-29I-3, §16-29I-4, §16-29I-5, §16-29I-6, §16-29I-7, §16-29I-8, §16-29I-9 and §16-29I-10 be repealed; that §5F-1-3a of said code be amended and reenacted; that §6-7-2a of said code be amended and reenacted; that §9-4C-7 and §9-4C-8 of said code be amended and reenacted; that §11-27-9 and §11-27-11 of said code be amended and reenacted; that §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-5, §16-2D-8, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-13, §16-2D-15 and §16-2D-16 of said code be amended and reenacted; that §16-2B-17 of said code be amended and reenacted; that §16-29B-2, §16-29B-3, §16-29B-5, §16-29B-8, §16-29B-12, §16-29B-26 and §16-29B-28 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §16-29B-5a; that said code be amended by adding thereto a new section, designated §16-29B-30; that said code be amended by adding thereto a new section, designated §16-29G-1a; that §16-29G-4 of said code be amended and reenacted; that §21-5F-4 of said code be amended and reenacted; that §33-4A-1, §33-4A-2, §33-4A-3, §33-4A-5, §33-4A-6, and §33-4A-7 of said code be amended and reenacted; and that §33-16D-16 of said code be amended and reenacted, all to read as follows:

CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

ARTICLE 1. GENERAL PROVISIONS.

§5F-1-3a. Executive compensation commission.
There is hereby created an executive compensation commission composed of three members, one of whom shall be the secretary of administration, one of whom shall be appointed by the Governor from the names of two or more nominees submitted by the President of the Senate, and one of whom shall be appointed by the Governor from the names of two or more nominees submitted by the Speaker of the House of Delegates. The names of such nominees shall be submitted to the Governor by not later than June 1, 2000, and the appointment of such members shall be made by the Governor by not later than July 1, 2000. The members appointed by the Governor shall have had significant business management experience at the time of their appointment and shall serve without compensation other than reimbursement for their reasonable expenses necessarily incurred in the performance of their commission duties. For the 2001 regular session of the Legislature and every four years thereafter, the commission shall review the compensation for cabinet secretaries and other appointed officers of this state, including, but not limited to, the following: Commissioner, Division of Highways; commissioner, Bureau of Employment Programs; director, Division of Environmental Protection; commissioner, Bureau of Senior Services; director of tourism; commissioner, division of tax; administrator, division of health; commissioner, Division of Corrections; director, Division of Natural Resources; superintendent, state police; administrator, lottery division; director, Public Employees Insurance Agency; administrator, Alcohol Beverage Control Commission; commissioner, Division of Motor Vehicles; director, Division of Personnel; Adjutant General; the Executive Director of the Health Care Authority; director, Division of Rehabilitation Services; executive director, educational broadcasting authority; executive secretary, Library Commission; chairman and members of the Public Service Commission; director of emergency services; administrator, division of human services; executive director, Human Rights Commission; director, division of Veterans Affairs; director, office of miner’s
Following this review, but not later than the twenty-first day of such regular session, the commission shall submit an executive compensation report to the Legislature to include specific recommendations for adjusting the compensation for the officers described in this section. The recommendation may be in the form of a bill to be introduced in each house to amend this section to incorporate the recommended adjustments.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers and salaries of officers.

(a) Each of the following appointive state officers named in this subsection shall be appointed by the Governor, by and with the advice and consent of the Senate. Each of the appointive state officers serves at the will and pleasure of the Governor for the term for which the Governor was elected and until the respective state officers’ successors have been appointed and qualified. Each of the
appointive state officers are subject to the existing qualifications for holding each respective office and each has and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by virtue of existing law respecting each office.

The annual salary of each named appointive state officer is as follows:

Commissioner, Division of Highways, $92,500; Commissioner, Division of Corrections, $80,000; Director, Division of Natural Resources, $75,000; Superintendent, State Police, $85,000; Commissioner, Division of Banking, $75,000; Commissioner, Division of Culture and History, $65,000; Commissioner, Alcohol Beverage Control Commission, $75,000; Commissioner, Division of Motor Vehicles, $75,000; Director, Human Rights Commission, $55,000; Commissioner, Division of Labor, $70,000; prior to July 1, 2011, Director, Division of Veterans Affairs, $65,000; Chairperson, Board of Parole, $55,000; members, Employment Security Review Board, $17,000; and Commissioner, Workforce West Virginia, $75,000. Secretaries of the departments shall be paid an annual salary as follows: Health and Human Resources, $95,000: Provided, That effective July 1, 2013, the Secretary of the Department of Health and Human Resources shall be paid an annual salary not to exceed $175,000; Transportation, $95,000: Provided, however, That if the same person is serving as both the Secretary of Transportation and the Commissioner of Highways, he or she shall be paid $120,000; Revenue, $95,000; Military Affairs and Public Safety, $95,000; Administration, $95,000; Education and the Arts, $95,000; Commerce, $95,000; Veterans’ Assistance, $95,000; and Environmental Protection, $95,000: Provided further, That any officer specified in this subsection whose salary is increased by more than $5,000 as a result of the amendment and reenactment of this section during the 2011 regular session of the Legislature shall be paid the salary increase
in increments of $5,000 per fiscal year beginning July 1, 2011, up to the maximum salary provided in this subsection.

(b) Each of the state officers named in this subsection shall continue to be appointed in the manner prescribed in this code and shall be paid an annual salary as follows:

Director, Board of Risk and Insurance Management, $80,000; Director, Division of Rehabilitation Services, $70,000; Director, Division of Personnel, $70,000; Executive Director, Educational Broadcasting Authority, $75,000; Secretary, Library Commission, $72,000; Director, Geological and Economic Survey, $75,000; Executive Director, Prosecuting Attorneys Institute, $80,000; Executive Director, Public Defender Services, $70,000; Commissioner, Bureau of Senior Services, $75,000; Executive Director, Women’s Commission, $45,000; Director, Hospital Finance Authority, $35,000; member, Racing Commission, $12,000; Chairman, Public Service Commission, $85,000; members, Public Service Commission, $85,000; Director, Division of Forestry, $75,000; Director, Division of Juvenile Services, $80,000; Executive Director, Regional Jail and Correctional Facility Authority, $80,000 and Executive Director of the Health Care Authority, $80,000.

(c) Each of the following appointive state officers named in this subsection shall be appointed by the Governor, by and with the advice and consent of the Senate. Each of the appointive state officers serves at the will and pleasure of the Governor for the term for which the Governor was elected and until the respective state officers’ successors have been appointed and qualified. Each of the appointive state officers are subject to the existing qualifications for holding each respective office and each has and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by virtue of existing law respecting each office.
The annual salary of each named appointive state officer shall be as follows:

Commissioner, State Tax Division, $92,500; Insurance Commissioner, $92,500; Director, Lottery Commission, $92,500; Director, Division of Homeland Security and Emergency Management, $65,000; and Adjutant General, $125,000.

(d) No increase in the salary of any appointive state officer pursuant to this section may be paid until and unless the appointive state officer has first filed with the State Auditor and the Legislative Auditor a sworn statement, on a form to be prescribed by the Attorney General, certifying that his or her spending unit is in compliance with any general law providing for a salary increase for his or her employees. The Attorney General shall prepare and distribute the form to the affected spending units.

CHAPTER 9. HUMAN SERVICES.

ARTICLE 4C. HEALTH CARE PROVIDER MEDICAID ENHANCEMENT ACT.

§9-4C-7. Powers and duties.

(a) Each board created pursuant to this article shall:

(1) Develop, recommend and review reimbursement methodology where applicable, and develop and recommend a reasonable provider fee schedule, in relation to its respective provider groups, so that the schedule conforms with federal Medicaid laws and remains within the limits of annual funding available to the single state agency for the Medicaid program. In developing the fee schedule the board may refer to a nationally published regional specific fee schedule, if available, as selected by the secretary in accordance with section eight of this article. The board may consider identified health care priorities in developing its fee schedule to the extent permitted by applicable federal Medicaid laws, and may recommend
higher reimbursement rates for basic primary and preventative health care services than for other services. In identifying basic primary and preventative health care services, the board may consider factors, including, but not limited to, services defined and prioritized by the basic services task force of the health care planning commission in its report issued in December of the year 1992; and minimum benefits and coverages for policies of insurance as set forth in section fifteen, article fifteen, chapter thirty-three of this code and section four, article sixteen-c of said chapter and rules of the Insurance Commissioner promulgated thereunder. If the single state agency approves the adjustments to the fee schedule, it shall implement the provider fee schedule;

(2) Review its respective provider fee schedule on a quarterly basis and recommend to the single state agency any adjustments it considers necessary. If the single state agency approves any of the board’s recommendations, it shall immediately implement those adjustments and shall report the same to the Joint Committee on Government and Finance on a quarterly basis;

(3) Assist and enhance communications between participating providers and the Department of Health and Human Resources;

(4) Meet and confer with representatives from each specialty area within its respective provider group so that equity in reimbursement increases or decreases may be achieved to the greatest extent possible and when appropriate to meet and confer with other provider boards; and

(5) Appoint a chairperson to preside over all official transactions of the board.

(b) Each board may carry out any other powers and duties as prescribed to it by the secretary.
(c) Nothing in this section gives any board the authority to interfere with the discretion and judgment given to the single state agency that administers the state’s Medicaid program. If the single state agency disapproves the recommendations or adjustments to the fee schedule, it is expressly authorized to make any modifications to fee schedules as are necessary to ensure that total financial requirements of the agency for the current fiscal year with respect to the state’s Medicaid plan are met and shall report such modifications to the Joint Committee on Government and Finance on a quarterly basis. The purpose of each board is to assist and enhance the role of the single state agency in carrying out its mandate by acting as a means of communication between the health care provider community and the agency.

(d) In addition to the duties specified in subsection (a) of this section, the ambulance service provider Medicaid board shall develop a method for regulating rates charged by ambulance services.

(e) On a quarterly basis, the single state agency and the board shall report the status of the fund, any adjustments to the fee schedule and the fee schedule for each health care provider identified in section two of this article to the Joint Committee on Government and Finance.

§9-4C-8. Duties of secretary of Department of Health and Human Resources.

(a) The secretary, or his or her designee, shall serve on each board created pursuant to this article as an ex officio, nonvoting member and shall keep and maintain records for each board.

(b) In relation to outpatient hospital services, the secretary shall furnish information needed for reporting purposes. This information includes, but is not limited to, the following:
(1) For each hospital, the amount of payments and related billed charges for hospital outpatient services each month;

(2) The percentage of the state’s share of Medicaid program financial obligation from time to time as necessary;

(3) Any other financial and statistical information necessary to determine the net effect of any cost shift.

(c) The secretary shall determine an appropriate resolution for conflicts arising between the various boards.

(d) The secretary shall purchase nationally published fee schedules to be used, if available, as a reference by the Medicaid enhancement boards in developing fee schedules.

CHAPTER 11. TAXATION.

ARTICLE 27. HEALTH CARE PROVIDER TAXES.

§11-27-9. Imposition of tax on providers of inpatient hospital services.

(a) Imposition of tax. — For the privilege of engaging or continuing within this state in the business of providing inpatient hospital services, there is hereby levied and shall be collected from every person rendering such service an annual broad-based health care related tax.

(b) Rate and measure of tax. — The tax imposed in subsection (a) of this section shall be two and one-half percent of the gross receipts derived by the taxpayer from furnishing inpatient hospital services in this state.

(c) Definitions. —

(1) “Gross receipts” means the amount received or receivable, whether in cash or in kind, from patients, third-party payors and others for inpatient hospital services furnished by the provider, including retroactive adjustments
under reimbursement agreements with third-party payors, without any deduction for any expenses of any kind: Provided, That accrual basis providers shall be allowed to reduce gross receipts by their contractual allowances, to the extent such allowances are included therein, and by bad debts, to the extent the amount of such bad debts was previously included in gross receipts upon which the tax imposed by this section was paid.

(2) “Contractual allowances” means the difference between revenue (gross receipts) at established rates and amounts realizable from third-party payors under contractual agreements.

(3) “Inpatient hospital services” means those services that are inpatient hospital services for purposes of Section 1903(w) of the Social Security Act.

§11-27-11. Imposition of tax on providers of nursing facility services, other than services of intermediate care facilities for individuals with an intellectual disability.

(a) Imposition of tax. — For the privilege of engaging or continuing within this state in the business of providing nursing facility services, other than those services of intermediate care facilities for individuals with an intellectual disability, there is levied and shall be collected from every person rendering such service an annual broad-based health care-related tax.

(b) Rate and measure of tax. — The tax imposed in subsection (a) of this section is five and one-half percent of the gross receipts derived by the taxpayer from furnishing nursing facility services in this state, other than services of intermediate care facilities for individuals with an intellectual disability.

(c) Definitions. —

(1) “Gross receipts” means the amount received or receivable, whether in cash or in kind, from patients, third-
party payors and others for nursing facility services furnished by the provider, including retroactive adjustments under reimbursement agreements with third-party payors, without any deduction for any expenses of any kind:

Provided, That accrual basis providers are allowed to reduce gross receipts by their bad debts, to the extent the amount of those bad debts was previously included in gross receipts upon which the tax imposed by this section was paid.

(2) “Nursing facility services” means those services that are nursing facility services for purposes of §1903(w) of the Social Security Act.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 2D. CERTIFICATE OF NEED.

§16-2D-2. Definitions.

As used in this article:

(1) “Affected person” means:

(A) The applicant;

(B) An agency or organization representing consumers;

(C) An individual residing within the geographic area but within this state served or to be served by the applicant;

(D) An individual who regularly uses the health care facilities within that geographic area;

(E) A health care facility located within this state which provide services similar to the services of the facility under review and which will be significantly affected by the proposed project;

(F) A health care facility located within this state which, before receipt by the authority of the proposal being reviewed, has formally indicated an intention to provide similar services within this state in the future;
(G) Third-party payors who reimburse health care facilities within this state; or

(H) An organization representing health care providers;

(2) “Ambulatory health care facility” means a facility that provides health services to noninstitutionalized and nonhomebound persons on an outpatient basis;

(3) “Ambulatory surgical facility” means a facility not physically attached to a health care facility that provides surgical treatment to patients not requiring hospitalization;

(4) “Applicant” means a person applying for a certificate of need, exemption or determination of review;

(5) “Authority” means the West Virginia Health Care Authority as provided in article twenty-nine-b of this chapter;

(6) “Bed capacity” means the number of beds licensed to a health care facility or the number of adult and pediatric beds permanently staffed and maintained for immediate use by inpatients in patient rooms or wards in an unlicensed facility;

(7) “Behavioral health services” means services provided for the care and treatment of persons with mental illness or developmental disabilities;

(8) “Birthing center” means a short-stay ambulatory health care facility designed for low-risk births following normal uncomplicated pregnancy;

(9) “Campus” means the adjacent grounds and buildings, or grounds and buildings not separated by more than a public right-of-way, of a health care facility;

(10) “Capital expenditure” means:

(A) (i) An expenditure made by or on behalf of a health care facility, which:
(I) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance; or

(II) Is made to obtain either by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and

(ii) (I) Exceeds the expenditure minimum;

(II) Is a substantial change to the bed capacity of the facility with respect to which the expenditure is made; or

(III) Is a substantial change to the services of such facility;

(B) The transfer of equipment or facilities for less than fair market value if the transfer of the equipment or facilities at fair market value would be subject to review; or

(C) A series of expenditures, if the sum total exceeds the expenditure minimum and if determined by the authority to be a single capital expenditure subject to review. In making this determination, the authority shall consider: Whether the expenditures are for components of a system which is required to accomplish a single purpose; or whether the expenditures are to be made within a two-year period within a single department such that they will constitute a significant modernization of the department.

(11) “Charges” means the economic value established for accounting purposes of the goods and services a hospital provides for all classes of purchasers;

(12) “Community mental health and intellectual disability facility” means a facility which provides comprehensive services and continuity of care as emergency, outpatient, partial hospitalization, inpatient or consultation and education for individuals with mental illness, intellectual disability;
(13) “Diagnostic imaging” means the use of radiology, ultrasound, mammography;

(14) “Drug and Alcohol Rehabilitation Services” means a medically or psychotherapeutically supervised process for assisting individuals through the processes of withdrawal from dependency on psychoactive substances;

(15) “Expenditure minimum” means the cost of acquisition, improvement, expansion of any facility, equipment, or services including the cost of any studies, surveys, designs, plans, working drawings, specifications and other activities, including staff effort and consulting at and above $5 million;

(16) “Health care facility” means a publicly or privately owned facility, agency or entity that offers or provides health services, whether a for-profit or nonprofit entity and whether or not licensed, or required to be licensed, in whole or in part;

(17) “Health care provider” means a person authorized by law to provide professional health services in this state to an individual;

(18) “Health services” means clinically related preventive, diagnostic, treatment or rehabilitative services;

(19) “Home health agency” means an organization primarily engaged in providing professional nursing services either directly or through contract arrangements and at least one of the following services:

(A) Home health aide services;
(B) Physical therapy;
(C) Speech therapy;
(D) Occupational therapy;
(E) Nutritional services; or
(F) Medical social services to persons in their place of residence on a part-time or intermittent basis.

(20) “Hospice” means a coordinated program of home and inpatient care provided directly or through an agreement under the direction of a licensed hospice program which provides palliative and supportive medical and other health services to terminally ill individuals and their families.

(21) “Hospital” means a facility licensed pursuant to the provisions of article five-b of this chapter and any acute care facility operated by the state government, that primarily provides inpatient diagnostic, treatment or rehabilitative services to injured, disabled or sick persons under the supervision of physicians.

(22) “Intermediate care facility” means an institution that provides health-related services to individuals with conditions that require services above the level of room and board, but do not require the degree of services provided in a hospital or skilled-nursing facility.

(23) “Like equipment” means medical equipment in which functional and technological capabilities are similar to the equipment being replaced; and the replacement equipment is to be used for the same or similar diagnostic, therapeutic, or treatment purposes as currently in use; and it does not constitute a substantial change in health service or a proposed health service.

(24) “Major medical equipment” means a single unit of medical equipment or a single system of components with related functions which is used for the provision of medical and other health services and costs in excess of the expenditure minimum. This term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician’s office and a hospital and it has been determined under Title XVIII of the
Social Security Act to meet the requirements of paragraphs ten and eleven, Section 1861(s) of such act, Title 42 U.S.C. §1395x. In determining whether medical equipment is major medical equipment, the cost of studies, surveys, designs, plans, working drawings, specifications and other activities essential to the acquisition of such equipment shall be included. If the equipment is acquired for less than fair market value, the term “cost” includes the fair market value.

(25) “Medically underserved population” means the population of an area designated by the authority as having a shortage of a specific health service.

(26) “Nonhealth-related project” means a capital expenditure for the benefit of patients, visitors, staff or employees of a health care facility and not directly related to health services offered by the health care facility.

(27) “Offer” means the health care facility holds itself out as capable of providing, or as having the means to provide, specified health services.

(28) “Opioid treatment program” means as that term is defined in article five-y of chapter sixteen.

(29) “Person” means an individual, trust, estate, partnership, limited liability corporation, committee, corporation, governing body, association and other organizations such as joint-stock companies and insurance companies, a state or a political subdivision or instrumentality thereof or any legal entity recognized by the state.

(30) “Personal care agency” means an entity that provides personal care services approved by the Bureau of Medical Services.

(31) “Personal care services” means personal hygiene; dressing; feeding; nutrition; environmental support and health-related tasks provided by a personal care agency.
(32) “Physician” means an individual who is licensed to practice allopathic medicine by the board of Medicine or licensed to practice osteopathic medicine by the board of Osteopathic Medicine.

(33) “Proposed health service” means any service as described in section eight of this article.

(34) “Purchaser” means an individual who is directly or indirectly responsible for payment of patient care services rendered by a health care provider, but does not include third-party payers.

(35) “Rates” means charges imposed by a health care facility for health services.

(36) “Records” means accounts, books and other data related to health service costs at health care facilities subject to the provisions of this article which do not include privileged medical information, individual personal data, confidential information, the disclosure of which is prohibited by other provisions of this code and the laws enacted by the federal government, and information, the disclosure of which would be an invasion of privacy.

(37) “Rehabilitation facility” means an inpatient facility licensed in West Virginia operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services.

(38) “Related organization” means an organization, whether publicly owned, nonprofit, tax-exempt or for profit, related to a health care facility through common membership, governing bodies, trustees, officers, stock ownership, family members, partners or limited partners, including, but not limited to, subsidiaries, foundations, related corporations and joint ventures. For the purposes of this subdivision “family members” means parents, children, brothers and sisters whether by the whole or half blood, spouse, ancestors and lineal descendants.
“Secretary” means the Secretary of the West Virginia Department of Health and Human Resources;

“Skilled nursing facility” means an institution, or a distinct part of an institution, that primarily provides inpatient skilled nursing care and related services, or rehabilitation services, to injured, disabled or sick persons.

“Standard” means a health service guideline developed by the authority and instituted under section six.

“State health plan” means a document prepared by the authority that sets forth a strategy for future health service needs in this state.

“Substantial change to the bed capacity” of a health care facility means any change, associated with a capital expenditure, that increases or decreases the bed capacity or relocates beds from one physical facility or site to another, but does not include a change by which a health care facility reassigns existing beds.

“Substantial change to the health services” means:

(A) The addition of a health service offered by or on behalf of the health care facility which was not offered by or on behalf of the facility within the twelve-month period before the month in which the service was first offered; or

(B) The termination of a health service offered by or on behalf of the facility but does not include the termination of ambulance service, wellness centers or programs, adult day care or respite care by acute care facilities.

“Telehealth” means the use of electronic information and telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health and health administration.
“Third-party payor” means an individual, person, corporation or government entity responsible for payment for patient care services rendered by health care providers.

“To develop” means to undertake those activities which upon their completion will result in the offer of a proposed health service or the incurring of a financial obligation in relation to the offering of such a service.

§16-2D-3. Powers and duties of the authority.

(a) The authority shall:

1. Administer the certificate of need program;

2. Review the state health plan, the certificate of need standards, and the cost effectiveness of the certificate of need program and make any amendments and modifications to each that it may deem necessary, no later than September 1, 2017, and biennially thereafter.

3. Shall adjust the expenditure minimum annually and publish to its website the updated amount on or before December 31, of each year. The expenditure minimum adjustment shall be based on the DRI inflation index.

4. Create a standing advisory committee to advise and assist in amending the state health plan, the certificate of need standards, and performing the state agencies’ responsibilities.

(b) The authority may:

1. Order a moratorium upon the offering or development of a health service when criteria and guidelines for evaluating the need for the health service have not yet been adopted or are obsolete or when it determines that the proliferation of the health service may cause an adverse impact on the cost of health services or the health status of the public.
(B) A moratorium shall be declared by a written order which shall detail the circumstances requiring the moratorium. Upon the adoption of criteria for evaluating the need for the health service affected by the moratorium, or one hundred eighty days from the declaration of a moratorium, whichever is less, the moratorium shall be declared to be over and applications for certificates of need are processed pursuant to section eight.

(2) Approve an emerging health service or technology for one year.

(3) Exempt from certificate of need or annual assessment requirements to financially vulnerable health care facilities located in underserved areas that the state agency and the Office of Community and Rural Health Services determine are collaborating with other providers in the service area to provide cost effective health services.

§16-2D-4. Rulemaking.

(a) The authority shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the following:

(1) Information a person shall provide when applying for a certificate of need;

(2) Information a person shall provide when applying for an exemption;

(3) Process for the issuance of grants and loans to financially vulnerable health care facilities located in underserved areas;

(4) Information a person shall provide in a letter of intent;

(5) Process for an expedited certificate of need;
(6) Determine medically underserved population. The authority may consider unusual local conditions that are a barrier to accessibility or availability of health services. The authority may consider when making its determination of a medically underserved population designated by the federal Secretary of Health and Human Services under Section 330(b)(3) of the Public Health Service Act, as amended, Title 42 U.S.C. §254;

(7) Process to review an approved certificate of need; and

(8) Process to review approved proposed health services for which the expenditure maximum is exceeded or is expected to be exceeded.

(b) All of the authority’s rules in effect and not in conflict with the provisions of this article, shall remain in effect until they are amended or rescinded.

§16-2D-5. Fee; special revenue account; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the authority shall be deposited in a separate special revenue fund in the State Treasury which is continued and shall be known as the “Certificate of Need Program Fund”. Expenditures from this fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: Provided, That for the fiscal year ending June 30, 2017, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

(b) Any amounts received as administrative fines imposed pursuant to this article shall be deposited into the General Revenue Fund of the State Treasury.
§16-2D-8. Proposed health services that require a certificate of need.

(a) Except as provided in sections nine, ten and eleven of this article, the following proposed health services may not be acquired, offered or developed within this state except upon approval of and receipt of a certificate of need as provided by this article:

(1) The construction, development, acquisition or other establishment of a health care facility;

(2) The partial or total closure of a health care facility with which a capital expenditure is associated;

(3) (A) An obligation for a capital expenditure incurred by or on behalf of a health care facility, in excess of the expenditure minimum; or

(B) An obligation for a capital expenditure incurred by a person to acquire a health care facility.

(4) An obligation for a capital expenditure is considered to be incurred by or on behalf of a health care facility:

(A) When a valid contract is entered into by or on behalf of the health care facility for the construction, acquisition, lease or financing of a capital asset;

(B) When the health care facility takes formal action to commit its own funds for a construction project undertaken by the health care facility as its own contractor; or

(C) In the case of donated property, on the date on which the gift is completed under state law.

(5) A substantial change to the bed capacity of a health care facility with which a capital expenditure is associated;

(6) The addition of ventilator services by a hospital;
(7) The elimination of health services previously offered on a regular basis by or on behalf of a health care facility which is associated with a capital expenditure;

(8) (A) A substantial change to the bed capacity or health services offered by or on behalf of a health care facility, whether or not the change is associated with a proposed capital expenditure;

(B) If the change is associated with a previous capital expenditure for which a certificate of need was issued; and

(C) If the change will occur within two years after the date the activity which was associated with the previously approved capital expenditure was undertaken.

(9) The acquisition of major medical equipment;

(10) A substantial change in an approved health service for which a certificate of need is in effect;

(11) An expansion of the service area for hospice or home health agency regardless of the time period in which the expansion is contemplated or made; and

(12) The addition of health services offered by or on behalf of a health care facility which were not offered on a regular basis by or on behalf of the health care facility within the twelve-month period prior to the time the services would be offered.

(b) The following health services are required to obtain a certificate of need regardless of the minimum expenditure:

(1) Constructing, developing, acquiring or establishing of a birthing center;

(2) Providing radiation therapy;

(3) Providing computed tomography;

(4) Providing positron emission tomography;
(5) Providing cardiac surgery;
(6) Providing fixed magnetic resonance imaging;
(7) Providing comprehensive medical rehabilitation;
(8) Establishing an ambulatory care center;
(9) Establishing an ambulatory surgical center;
(10) Providing diagnostic imaging;
(11) Providing cardiac catheterization services;
(12) Constructing, developing, acquiring or establishing
of kidney disease treatment centers, including freestanding
hemodialysis units;
(13) Providing megavoltage radiation therapy;
(14) Providing surgical services;
(15) Establishing operating rooms;
(16) Adding acute care beds;
(17) Providing intellectual developmental disabilities
services;
(18) Providing organ and tissue transplants;
(19) Establishing an intermediate care facility for
individuals with intellectual disabilities;
(20) Providing inpatient services;
(21) Providing hospice services;
(22) Establishing a home health agency; and
(23) Providing personal care services.

(c) A certificate of need previously approved under this
article remains in effect unless revoked by the authority.
§16-2D-9. Health services that cannot be developed.

Notwithstanding section eight and eleven, these health services require a certificate of need but the authority may not issue a certificate of need to:

1. A health care facility adding intermediate care or skilled nursing beds to its current licensed bed complement, except as provided in subdivision twenty-three, subsection (c), section eleven;

2. A person developing, constructing or replacing a skilled nursing facility except in the case of facilities designed to replace existing beds in existing facilities that may soon be deemed unsafe or facilities utilizing existing licensed beds from existing facilities which are designed to meet the changing health care delivery system;

3. Add beds in an intermediate care facility for individuals with an intellectual disability, except that prohibition does not apply to an intermediate care facility under the Kanawha County circuit court order of August 3, 1989, civil action number MISC-81-585 issued in the case of E.H. v. Matin, 168 W.V. 248, 284 S.E. 2d 232 (1981); and

4. An opioid treatment program.

§16-2D-10. Exemptions from certificate of need.

Notwithstanding section eight, a person may provide the following health services without obtaining a certificate of need or applying to the authority for approval:

1. The creation of a private office of one or more licensed health professionals to practice in this state pursuant to chapter thirty of this code;

2. Dispensaries and first-aid stations located within business or industrial establishments maintained solely for
the use of employees that does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four hours;

(3) A place that provides remedial care or treatment of residents or patients conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination;

(4) Telehealth;

(5) A facility owned or operated by one or more health professionals authorized or organized pursuant to chapter thirty or ambulatory health care facility which offers laboratory services or diagnostic imaging to patients regardless of the cost associated with the proposal. To qualify for this exemption seventy-five percent of the laboratory services are for the patients of the practice or ambulatory health care facility of the total laboratory services performed and seventy-five percent of diagnostic imaging services are for the patients of the practice or ambulatory health care facility of the total imaging services performed. The authority may, at any time, request from the entity information concerning the number of patients who have been provided laboratory services or diagnostic imaging;

(6) (A) Notwithstanding the provisions of section seventeen of this article, any hospital that holds a valid certificate of need issued pursuant to this article, may transfer that certificate of need to a person purchasing that hospital, or all or substantially all of its assets, if the hospital is financially distressed. A hospital is financially distressed if, at the time of its purchase:

(i) It has filed a petition for voluntary bankruptcy;

(ii) It has been the subject of an involuntary petition for bankruptcy;
(iii) It is in receivership;

(iv) It is operating under a forbearance agreement with one or more of its major creditors;

(v) It is in default of its obligations to pay one or more of its major creditors and is in violation of the material, substantive terms of its debt instruments with one or more of its major creditors; or

(vi) It is insolvent: evidenced by balance sheet insolvency and/or the inability to pay its debts as they come due in the ordinary course of business.

(B) A financially distressed hospital which is being purchased pursuant to the provisions of this subsection shall give notice to the authority of the sale thirty days prior to the closing of the transaction and shall file simultaneous with that notice evidence of its financial status. The financial status or distressed condition of a hospital shall be evidenced by the filing of any of the following:

(i) A copy of a forbearance agreement;

(ii) A copy of a petition for voluntary or involuntary bankruptcy;

(iii) Written evidence of receivership, or

(iv) Documentation establishing the requirements of subparagraph (v) or (vi), paragraph (A) of this subdivision. The names of creditors may be redacted by the filing party.

(C) Any substantial change to the capacity of services offered in that hospital made subsequent to that transaction would remain subject to the requirements for the issuance of a certificate of need as otherwise set forth in this article.

(D) Any person purchasing a financially distressed hospital, or all or substantially all of its assets, that has
applied for a certificate of need after January 1, 2017, shall qualify for an exemption from certificate of need;

(7) The acquisition by a qualified hospital which is party to an approved cooperative agreement as provided in section twenty-eight, article twenty-nine-b, chapter sixteen of this code, of a hospital located within a distance of twenty highway miles of the main campus of the qualified hospital; and

(8) The acquisition by a hospital of a physician practice group which owns an ambulatory surgical center as defined in this article.

§16-2D-11. Exemptions from certificate of need which require approval from the authority.

(a) To obtain an exemption under this section a person shall:

(1) File an exemption application;

(2) Pay the $1,000 application fee; and

(3) Provide a statement detailing which exemption applies and the circumstances justifying the approval of the exemption.

(b) The authority has forty-five days to review the exemption request. The authority may not hold an administrative hearing to review the application. A person may not file an objection to the request for an exemption. The applicant may request or agree with the authority to a fifteen day extension of the timeframe. If the authority does not approve or deny the application within forty-five days, then the exemption is immediately approved. If the authority denies the approval of the exemption, only the applicant may appeal the authority’s decision to the Office of Judges or refile the application with the authority.
(c) Notwithstanding section eight and ten and except as provided in section nine of this article, the Legislature finds that a need exists and these health services are exempt from the certificate of need process:

(1) The acquisition and utilization of one computed tomography scanner with a purchase price up to $750,000 that is installed in a private office practice where at minimum seventy-five percent of the scans are performed on the patients of the practice. The private office practice shall obtain and maintain accreditation from the American College of Radiology prior to, and at all times during, the offering of this service. The authority may at any time request from the private office practice information relating to the number of patients who have been provided scans and proof of active and continuous accreditation from the American College of Radiology. If a physician owns or operates a private office practice in more than one location, this exemption shall only apply to the physician’s primary place of business and if a physician wants to expand the offering of this service to include more than one computed tomography scanner, he or she shall be required to obtain a certificate of need prior to expanding this service. All current certificates of need issued for computed tomography services, with a required percentage threshold of scans to be performed on patients of the practice in excess of seventy-five percent, shall be reduced to seventy-five percent: Provided, That these limitations on the exemption for a private office practice with more than one location shall not apply to a private office practice with more than twenty locations in the state at the time of the changes made to this article during the 2017 Regular Session of the Legislature.

(2) (A) A birthing center established by a nonprofit primary care center that has a community board and provides primary care services to people in their community without regard to ability to pay; or

(B) A birthing center established by a nonprofit hospital with less than one hundred licensed acute care beds.
(i) To qualify for this exemption, an applicant shall be located in an area that is underserved with respect to low-risk obstetrical services; and

(ii) Provide a proposed health service area.

(3) (A) A health care facility acquiring major medical equipment, adding health services or obligating a capital expenditure to be used solely for research;

(B) To qualify for this exemption, the health care facility shall show that the acquisition, offering or obligation will not:

(i) Affect the charges of the facility for the provision of medical or other patient care services other than the services which are included in the research;

(ii) Result in a substantial change to the bed capacity of the facility; or

(iii) Result in a substantial change to the health services of the facility.

(C) For purposes of this subdivision, the term “solely for research” includes patient care provided on an occasional and irregular basis and not as part of a research program;

(4) The obligation of a capital expenditure to acquire, either by purchase, lease or comparable arrangement, the real property, equipment or operations of a skilled nursing facility: Provided, That a skilled nursing facility developed pursuant to subdivision (17) of this section and subsequently acquired pursuant to this subdivision may not transfer or sell any of the skilled nursing home beds of the acquired skilled nursing facility until the skilled nursing facility has been in operation for at least ten years.

(5) Shared health services between two or more hospitals licensed in West Virginia providing health
services made available through existing technology that can reasonably be mobile. This exemption does not include providing mobile cardiac catheterization;

(6) The acquisition, development or establishment of a certified interoperable electronic health record or electronic medical record system;

(7) The addition of forensic beds in a health care facility;

(8) A behavioral health service selected by the Department of Health and Human Resources in response to its request for application for services intended to return children currently placed in out-of-state facilities to the state or to prevent placement of children in out-of-state facilities is not subject to a certificate of need;

(9) The replacement of major medical equipment with like equipment, only if the replacement major medical equipment cost is more than the expenditure minimum;

(10) Renovations within a hospital, only if the renovation cost is more than the expenditure minimum. The renovations may not expand the health care facility’s current square footage, incur a substantial change to the health services, or a substantial change to the bed capacity;

(11) Renovations to a skilled nursing facility;

(12) The construction, development, acquisition or other establishment by a hospital of an ambulatory health care facility in the county in which it is located;

(13) The donation of major medical equipment to replace like equipment for which a certificate of need has been issued and the replacement does not result in a substantial change to health services. This exemption does not include the donation of major medical equipment made to a health care facility by a related organization;
A person providing specialized foster care personal care services to one individual and those services are delivered in the provider’s home;

A hospital converting the use of beds except a hospital may not convert a bed to a skilled nursing home bed and conversion of beds may not result in a substantial change to health services provided by the hospital;

The construction, renovation, maintenance or operation of a state owned veterans skilled nursing facilities established pursuant to the provisions of article one-b of this chapter;

To develop and operate a skilled nursing facility with no more than thirty-six beds in a county that currently is without a skilled nursing facility;

A critical access hospital, designated by the state as a critical access hospital, after meeting all federal eligibility criteria, previously licensed as a hospital and subsequently closed, if it reopens within ten years of its closure;

The establishing of a health care facility or offering of health services for children under one year of age suffering from Neonatal Abstinence Syndrome;

The construction, development, acquisition or other establishment of community mental health and intellectual disability facility;

Providing behavioral health facilities and services;

The construction, development, acquisition or other establishment of kidney disease treatment centers, including freestanding hemodialysis units but only to a medically underserved population;

The transfer, purchase or sale of intermediate care or skilled nursing beds from a skilled nursing facility or a skilled nursing unit of an acute care hospital to a skilled
nursing facility providing intermediate care and skilled
nursing services. No state agency may deny payment to an
acquiring nursing home or place any restrictions on the beds
transferred under this subsection. The transferred beds shall
retain the same certification status that existed at the nursing
home or hospital skilled nursing unit from which they were
acquired. If construction is required to place the transferred
beds into the acquiring nursing home, the acquiring nursing
home has one year from the date of purchase to commence
construction;

(24) The construction, development, acquisition or
other establishment by a health care facility of a nonhealth
related project, only if the nonhealth related project cost is
more than the expenditure minimum;

(25) The construction, development, acquisition or
other establishment of an alcohol or drug treatment facility
and drug and alcohol treatment services unless the
construction, development, acquisition or other
establishment is an opioid treatment facility or programs as
set forth in subdivision (4) of section nine of this article;

(26) Assisted living facilities and services; and

(27) The creation, construction, acquisition or
expansion of a community-based nonprofit organization
with a community board that provides or will provide
primary care services to people without regard to ability to
pay and receives approval from the Health Resources and
Services Administration.

§16-2D-13. Procedures for certificate of need reviews.

(a) An application for a certificate of need shall be
submitted to the authority prior to the offering or developing
of a proposed health service.

(b) A person proposing a proposed health service shall:
(1) Submit a letter of intent ten days prior to submitting the certificate of need application. If the tenth day falls on a weekend or holiday, the certificate of need application shall be filed on the next business day. The information required within the letter of intent shall be detailed by the authority in legislative rule;

(2) Submit the appropriate application fee;

(A) Up to $1,500,000 a fee of $1,500.00;

(B) From $1,500,001 to $5,000,000 a fee of $5,000.00;

(C) From $5,000,001 to $25,000,000 a fee of $25,000.00; and

(D) From $25,000,001 and above a fee of $35,000.00.

(3) Submit to the Director of the Office of Insurance Consumer Advocacy a copy of the application;

(c) The authority shall determine if the submitted application is complete within ten days of receipt of the application. The authority shall provide written notification to the applicant of this determination. If the authority determines an application to be incomplete, the authority may request additional information from the applicant.

(d) Within five days of receipt of a letter of intent, the authority shall provide notification to the public through a newspaper of general circulation in the area where the health service is being proposed and by placing of copy of the letter of intent on its website. The newspaper notice shall contain a statement that, further information regarding the application is on the authority’s web site.

(e) The authority may batch completed applications for review on the fifteenth day of the month or the last day of month in which the application is deemed complete.
(f) When the application is submitted, ten days after filing the letter of intent, the application shall be placed on the authority’s website.

(g) An affected party has thirty days starting from the date the application is batched to request the authority hold an administrative hearing.

(1) A hearing order shall be approved by the authority within fifteen days from the last day an affected person may requests an administrative hearing on a certificate of need application.

(2) A hearing shall take place no later than three months from that date the hearing order was approved by the authority.

(3) The authority shall conduct the administrative hearing in accordance with administrative hearing requirements in section twelve, article twenty-nine-b of this chapter and article five, chapter twenty-nine-a of this code.

(4) In the administrative hearing an affected person has the right to be represented by counsel and to present oral or written arguments and evidence relevant to the matter which is the subject of the public hearing. An affected person may conduct reasonable questioning of persons who make factual allegations relevant to its certificate of need application.

(5) The authority shall maintain a verbatim record of the administrative hearing.

(6) After the commencement of the administrative hearing on the application and before a decision is made with respect to it, there may be no ex parte contacts between:

(A) The applicant for the certificate of need, any person acting on behalf of the applicant or holder of a certificate of need or any person opposed to the issuance of a certificate for the applicant; and
(B) Any person in the authority who exercises any responsibility respecting the application.

(7) The authority may not impose fees to hold the administrative hearing.

(8) The authority shall render a decision within forty-five days of the conclusion of the administrative hearing.

(h) If an administrative hearing is not conducted during the review of an application, the authority shall provide a file closing date five days after an affected party may no longer request an administrative hearing, after which date no other factual information or evidence may be considered in the determination of the application for the certificate of need. A detailed itemization of documents in the authority’s file on a proposed health service shall, on request, be made available by the authority at any time before the file closing date.

(i) The extent of additional information received by the authority from the applicant for a certificate of need after a review has begun on the applicant’s proposed health service, with respect to the impact on the proposed health service and additional information which is received by the authority from the applicant, may be cause for the authority to determine the application to be a new proposal, subject to a new review cycle.

(j) The authority shall have five days to provide the written status update upon written request by the applicant or an affected person. The status update shall include the findings made in the course of the review and any other appropriate information relating to the review.

(k) (1) The authority shall annually prepare and publish to its website, a status report of each ongoing and completed certificate of need application reviews.

(2) For a status report of an ongoing review, the authority shall include in its report all findings made during
the course of the review and any other appropriate information relating to the review.

(3) For a status report of a completed review, the authority shall include in its report all the findings made during the course of the review and its detailed reasoning for its final decision.

(1) The authority shall provide for access by the public to all applications reviewed by the authority and to all other pertinent written materials essential to agency review.

§16-2D-15. Authority to render final decision; issue certificate of need; write findings; specify capital expenditure maximum.

(a) The authority shall render a final decision on an application for a certificate of need in the form of an approval, a denial or an approval with conditions. The final decision with respect to a certificate of need shall be based solely on:

(1) The authority’s review conducted in accordance with procedures and criteria in this article and the certificate of need standards; and

(2) The record established in the administrative hearing held with respect to the certificate of need.

(b) Approval with conditions does not give the authority the ability to mandate a health service not proposed by the health care facility. Issuance of a certificate of need or exemption may not be made subject to any condition unless the condition directly relates to criteria in this article, or in the certificate of need standards. Conditions may be imposed upon the operations of the health care facility for not longer than a three-year period.

(c) The authority shall send its decision along with written findings to the person proposing the proposed health
service or exemption and shall make it available to others upon request.

(d) In the case of a final decision to approve or approve with conditions a proposal for a proposed health service, the authority shall issue a certificate of need to the person proposing the proposed health service.

(e) The authority shall specify in the certificate of need the maximum amount of capital expenditures which may be obligated. The authority shall adopt legislative rules pursuant to section four to prescribe the method used to determine capital expenditure maximums and a process to review the implementation of an approved certificate of need for a proposed health service for which the capital expenditure maximum is exceeded or is expected to be exceeded.

§16-2D-16. Appeal of certificate of need a decision.

(a) An applicant or an affected person may appeal the authority’s final decision in a certificate of need review to the Office of Judges. The request shall be received within thirty days after the date of the authority’s decision. The appeal hearing shall commence within thirty days of receipt of the request.

(b) The Office of Judges shall conduct its proceedings in conformance with the West Virginia Rules of Civil Procedure for trial courts of record and the local rules for use in the civil courts of Kanawha County and shall review appeals in accordance with the provisions governing the judicial review of contested administrative cases in article five, chapter twenty-nine-a of this code.

(c) The decision of the Office of Judges shall be made in writing within forty-five days after the conclusion of the hearing.

(d) The written findings of the Office of Judges shall be sent to the person who requested the appeal, to the person
proposing the proposed health service and to the authority, and shall be made available by the authority to others upon request.

(e) The decision of the Office of Judges shall be considered the final decision of the authority; however, the Office of Judges may remand the matter to the authority for further action or consideration.

(f) Upon the entry of a final decision by the Office of Judges, an affected person may within thirty days after the date of the decision of the Office of Judges make an appeal in the circuit court of Kanawha County. The decision of the Office of Judges shall be reviewed by the circuit court in accordance with the provisions for the judicial review of administrative decisions contained in article five, chapter twenty-nine-a of this code.

ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.

§16-5B-17. Healthcare-associated infection reporting.

(a) As used in this section, the following words mean:

(1) “Centers for Disease Control and Prevention” or “CDC” means the United States Department of Health and Human Services Centers for Disease Control and Prevention;

(2) “National Healthcare Safety Network” or “NHSN” means the secure Internet-based data collection surveillance system managed by the Division of Healthcare Quality Promotion at the CDC, created by the CDC for accumulating, exchanging and integrating relevant information on infectious adverse events associated with healthcare delivery.

(3) “Hospital” means hospital as that term is defined in subsection-e, section three, article twenty-nine-b, chapter sixteen.
(4) “Healthcare-associated infection” means a localized or systemic condition that results from an adverse reaction to the presence of an infectious agent or a toxin of an infectious agent that was not present or incubating at the time of admission to a hospital.

(5) “Physician” means a person licensed to practice medicine by either the board of Medicine or the board of osteopathy.

(6) “Nurse” means a person licensed in West Virginia as a registered professional nurse in accordance with article seven, chapter thirty.

(b) The Secretary of the Department of Health and Human Resources is hereby directed to create an Infection Control Advisory Panel whose duty is to provide guidance and oversight in implementing this section. The advisory panel shall consist of the following members:

(1) Two board-certified or board-eligible physicians, affiliated with a West Virginia hospital or medical school, who are active members of the Society for Health Care Epidemiology of America and who have demonstrated an interest in infection control;

(2) One physician who maintains active privileges to practice in at least one West Virginia hospital;

(3) Three infection control practitioners, two of whom are nurses, each certified by the Certification Board of Infection Control and Epidemiology, and each working in the area of infection control. Rural and urban practice must be represented;

(4) A statistician with an advanced degree in medical statistics;

(5) A microbiologist with an advanced degree in clinical microbiology;
(6) The Director of the Division of Disease Surveillance and Disease Control in the Bureau for Public Health or a designee; and

(7) The director of the hospital program in the office of health facilities, licensure and certification in the Bureau for Public Health.

(c) The advisory panel shall:

(1) Provide guidance to hospitals in their collection of healthcare-associated infections;

(2) Provide evidence-based practices in the control and prevention of healthcare associated infections;

(3) Establish reasonable goals to reduce the number of healthcare-associated infections;

(4) Develop plans for analyzing infection-related data from hospitals;

(5) Develop healthcare-associated advisories for hospital distribution;

(6) Review and recommend to the Secretary of the Department of Health and Human Resources the manner in which the reporting is made available to the public to assure that the public understands the meaning of the report; and

(7) Other duties as identified by the Secretary of the Department of Health and Human Resources.

(d) Hospitals shall report information on healthcare-associated infections in the manner prescribed by the CDC National Healthcare Safety Network (NHSN). The reporting standard prescribed by the CDC National Healthcare Safety Network (NHSN) shall be the reporting system of the hospitals in West Virginia.

(e) Hospitals who fail to report information on healthcare associated infections in the manner and time
frame required by the Secretary of the Department of Health and Human Resources shall be fined the sum of $5,000 for each such failure.

(f) The Infection Control Advisory Panel shall provide the results of the collection and analysis of all hospital data to the Secretary of the Department of Health and Human Resources for public availability and the Bureau for Public Health for consideration in their hospital oversight and epidemiology and disease surveillance responsibilities in West Virginia.

(g) Data collected and reported pursuant to this act may not be considered to establish standards of care for any purposes of civil litigation in West Virginia.

(h) The Secretary of the Department of Health and Human Resources shall require that all hospitals implement and initiate this reporting requirement.

ARTICLE 29B. HEALTH CARE AUTHORITY.

§16-29B-2. Effective Date.

Effective the first day of July, 2017, all powers, duties and functions of the West Virginia Health Care Authority shall be transferred to the West Virginia Department of Health and Human Resources.

§16-29B-3. Definitions.

Definitions of words and terms defined in articles two-d and five-f of this chapter are incorporated in this section unless this section has different definitions.

As used in this article, unless a different meaning clearly appears from the context:

(a) “Authority” means the Health Care Authority created pursuant to the provisions of this article;
(b) “Board” means the five-member board of directors of the West Virginia Health Care Authority;

c) “Charges” means the economic value established for accounting purposes of the goods and services a hospital provides for all classes of purchasers;

d) “Class of purchaser” means a group of potential hospital patients with common characteristics affecting the way in which their hospital care is financed. Examples of classes of purchasers are Medicare beneficiaries, welfare recipients, subscribers of corporations established and operated pursuant to article twenty-four, chapter thirty-three of this code, members of health maintenance organizations and other groups as defined by the authority;

e) “Executive Director” or “Director” means the administrative head of the Health Care Authority as set forth in section five-a of this article;

(f) “Health care provider” means a person, partnership, corporation, facility, hospital or institution licensed, certified or authorized by law to provide professional health care service in this state to an individual during this individual’s medical, remedial, or behavioral health care, treatment or confinement. For purposes of this article, “health care provider” shall not include the private office practice of one or more health care professionals licensed to practice in this state pursuant to the provisions of chapter thirty of this code;

(g) “Hospital” means a facility subject to licensure as such under the provisions of article five-b of this chapter, and any acute care facility operated by the state government which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled or sick persons, and does not include state mental health facilities or state long-term care facilities;
(h) “Person” means an individual, trust, estate, partnership, committee, corporation, association or other organization such as a joint stock company, a state or political subdivision or instrumentality thereof or any legal entity recognized by the state;

(i) “Purchaser” means a consumer of patient care services, a natural person who is directly or indirectly responsible for payment for such patient care services rendered by a health care provider, but does not include third-party payers;

(j) “Rates” means all value given or money payable to health care providers for health care services, including fees, charges and cost reimbursements;

(k) “Records” means accounts, books and other data related to health care costs at health care facilities subject to the provisions of this article which do not include privileged medical information, individual personal data, confidential information, the disclosure of which is prohibited by other provisions of this code and the laws enacted by the federal government, and information, the disclosure of which would be an invasion of privacy;

(l) “Related organization” means an organization, whether publicly owned, nonprofit, tax-exempt or for profit, related to a health care provider through common membership, governing bodies, trustees, officers, stock ownership, family members, partners or limited partners including, but not limited to, subsidiaries, foundations, related corporations and joint ventures. For the purposes of this subsection family members means brothers and sisters, whether by the whole or half blood, spouse, ancestors and lineal descendants;

(m) “Secretary” means the Secretary of the Department of Health and Human Resources; and
(n) “Third-party payor” means any natural person, person, corporation or government entity responsible for payment for patient care services rendered by health care providers.

§16-29B-5. West Virginia Health Care Authority; composition of the board; qualifications; terms; oath; expenses of members; vacancies; appointment of chairman, and meetings of the board.

(a) The “West Virginia Health Care Authority” is continued as a division of the Department of Health and Human Resources. Any references in this code to the West Virginia Health Care Cost Review Authority means the West Virginia Health Care Authority.

(b) There is created a board of review to serve as the adjudicatory body of the authority and shall conduct all hearings as required in this article, article two-d of this chapter.

(1) The board shall consist of five members, appointed by the Governor, with the advice and consent of the Senate. The board members are not permitted to hold political office in the government of the state either by election or appointment while serving as a member of the board. The board members are not eligible for civil service coverage as provided in section four, article six, chapter twenty-nine of this code. The board members shall be citizens and residents of this state.

(2) No more than three of the board members may be members of the same political party. One board member shall have a background in health care finance or economics, one board member shall have previous employment experience in human services, business administration or substantially related fields, one board member shall have previous experience in the administration of a health care facility, one board member shall have previous experience as a provider of health care
(3) Each member appointed by the Governor shall serve staggered terms of six years. Any member whose term has expired shall serve until his or her successor has been appointed. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member shall be eligible for reappointment. In cases of vacancy in the office of member, such vacancy shall be filled by the Governor in the same manner as the original appointment.

(4) Each board member shall, before entering upon the duties of his or her office, take and subscribe to the oath provided by section five, article IV of the Constitution of the State of West Virginia, which oath shall be filed in the office of the Secretary of State.

(5) The Governor shall designate one of the board members to serve as chairman at the Governor’s will and pleasure.

(6) The Governor may remove any board member only for incompetency, neglect of duty, gross immorality, malfeasance in office or violation of the provisions of this article.

(7) No person while in the employ of, or holding any official relation to, any hospital or health care provider subject to the provisions of this article, or who has any pecuniary interest in any hospital or health care provider, may serve as a member of the board. Nor may any board member be a candidate for or hold public office or be a member of any political committee while acting as a board member; nor may any board member or employee of the board receive anything of value, either directly or indirectly, from any third-party payor or health care provider. If any of the board members become a candidate for any public office or for membership on any political committee, the Governor
shall remove the board member from the board and shall appoint a new board member to fill the vacancy created. No board member or former board member may accept employment with any hospital or health care provider subject to the jurisdiction of the board in violation of the West Virginia governmental ethics act, chapter six-b of this code: Provided, That the act may not apply to employment accepted after termination of the board.

(8) The concurrent judgment of three of the board members shall be considered the action of the board. A vacancy in the board does not affect the right or duty of the remaining board members to function as a board.

(9) Each member of the board shall serve without compensation, but shall receive expense reimbursement for all reasonable and necessary expenses actually incurred in the performance of the duties of the office, in the same amount paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law. No member may be reimbursed for expenses paid by a third party.

§16-29B-5a. Executive Director of the authority; powers and duties.

(a) The Secretary shall appoint an executive director of the authority to supervise and direct the fiscal and administrative matters of the authority. This person shall be qualified by training and experience to direct the operations of the authority. The executive director is ineligible for civil service coverage as provided in section four, article six, chapter twenty-nine of this code and serves at the will and pleasure of the Secretary.

(b) The executive director shall:

(1) Serve on a full-time basis and may not be engaged in any other profession or occupation;
(2) Not hold political office in the government of the state either by election or appointment while serving as executive director;

(3) Shall be a citizen of the United States and shall become a citizen of the state within ninety days of appointment; and

(4) Report to the Secretary.

(c) The executive director has other powers and duties as set forth in this article.

§16-29B-8. Powers generally; budget expenses of the authority.

In addition to the powers granted to the authority elsewhere in this article, the authority may:

(1) Adopt, amend and repeal necessary, appropriate and lawful policy guidelines, and in cooperation with the Secretary, propose rules in accordance with article three, chapter twenty-nine-a of this code;

(2) Hold public hearings, conduct investigations and require the filing of information relating to matters affecting the costs of health care services subject to the provisions of this article and may subpoena witnesses, papers, records, documents and all other data in connection therewith. The board may administer oaths or affirmations in any hearing or investigation; and

(3) Exercise, subject to limitations or restrictions herein imposed, all other powers which are reasonably necessary or essential to effect the express objectives and purposes of this article.

§16-29B-12. Certificate of need hearings; administrative procedures act applicable; hearings examiner; subpoenas.
(a) The board shall conduct such hearings as it deems necessary for the performance of its functions and shall hold hearings when required by the provisions of this chapter or upon a written demand by a person aggrieved by any act or failure to act by the board regulation or order of the board. All hearings of the board pursuant to this section shall be announced in a timely manner and shall be open to the public. In making decisions in the certificate of need process, the board shall be guided by the state health plan approved by the Governor.

(b) All pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern the hearing and administrative procedures in connection with and following the hearing except as specifically stated to the contrary in this article. General counsel for Department of Health and Human Resources or general counsel for the authority shall represent the interest of the authority at all hearings.

(c) Any hearing may be conducted by members of the board or by a hearing examiner appointed by the board for such purpose. The chairperson of the board may issue subpoenas and subpoenas duces tecum which shall be issued and served pursuant to the time, fee and enforcement specifications in section one, article five, chapter twenty-nine-a of this code.

(d) Notwithstanding any other provision of state law, when a hospital alleges that a factual determination made by the board is incorrect, the burden of proof shall be on the hospital to demonstrate that such determination is, in light of the total record, not supported by substantial evidence. The burden of proof remains with the hospital in all cases.

(e) After any hearing, after due deliberation, and in consideration of all the testimony, the evidence and the total record made, the board shall render a decision in writing. The written decision shall be accompanied by findings of fact and conclusions of law as specified in section three,
article five, chapter twenty-nine-a of this code, and the copy of the decision and accompanying findings and conclusions shall be served by certified mail, return receipt requested, upon the party demanding the hearing, and upon its attorney of record, if any.

(f) Any interested individual, group or organization shall be recognized as affected parties upon written request from the individual, group or organization. Affected parties shall have the right to bring relevant evidence before the board and testify thereon. Affected parties shall have equal access to records, testimony and evidence before the board and shall have equal access to the expertise of the authority’s staff. The authority, with the approval of the secretary, shall have authority to propose rules to administer provisions of this section.

(g) A decision of the board is final unless reversed, vacated or modified upon judicial review thereof, in accordance with the provisions of section thirteen of this article.

§16-29B-26. Exemptions from state antitrust laws.

(a) Actions of the authority shall be exempt from antitrust action under state and federal antitrust laws. Any actions of hospitals and health care providers under the authority’s jurisdiction, when made in compliance with orders, directives, rules, approvals or regulations issued or promulgated by the authority, shall likewise be exempt.

(b) It is the intention of the Legislature that this chapter shall also immunize cooperative agreements approved and subject to supervision by the authority and activities conducted pursuant thereto from challenge or scrutiny under both state and federal antitrust law: Provided, That a cooperative agreement that is not approved and subject to supervision by the authority shall not have such immunity.

(a) Definitions. — As used in this section the following terms have the following meanings:

1. “Academic medical center” means an accredited medical school, one or more faculty practice plans affiliated with the medical school or one or more affiliated hospitals which meet the requirements set forth in 42 C. F. R. 411.355(e).

2. “Accredited academic hospital” means a hospital or health system that sponsor four or more approved medical education programs.

3. “Cooperative agreement” means an agreement between a qualified hospital which is a member of an academic medical center and one or more other hospitals or other health care providers. The agreement shall provide for the sharing, allocation, consolidation by merger or other combination of assets, or referral of patients, personnel, instructional programs, support services and facilities or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered by hospitals or other health care providers.

4. “Commercial health plan” means a plan offered by any third party payor that negotiates with a party to a cooperative agreement with respect to patient care services rendered by health care providers.

5. “Health care provider” means the same as that term is defined in section three of this article.

6. “Teaching hospital” means a hospital or medical center that provides clinical education and training to future and current health professionals whose main building or campus is located in the same county as the main campus of a medical school operated by a state university.

7. “Qualified hospital” means an academic medical center or teaching accredited academic hospital, which has entered into a cooperative agreement with one or more
(b) Findings. —

(1) The Legislature finds that the state’s schools of medicine, affiliated universities and teaching hospitals are critically important in the training of physicians and other healthcare providers who practice healthcare in this state. They provide access to healthcare and enhance quality healthcare for the citizens of this state.

(2) A medical education is enhanced when medical students, residents and fellows have access to modern facilities, state of the art equipment and a full range of clinical services and that, in many instances, the accessibility to facilities, equipment and clinical services can be achieved more economically and efficiently through a cooperative agreement among a qualified hospital and one or more hospitals or other health care providers.

(c) Legislative purpose. — The Legislature encourages cooperative agreements if the likely benefits of such agreements outweigh any disadvantages attributable to a reduction in competition. When a cooperative agreement, and the planning and negotiations of cooperative agreements, might be anticompetitive within the meaning and intent of state and federal antitrust laws the Legislature believes it is in the state’s best interest to supplant such laws with regulatory approval and oversight by the Health Care Authority as set out in this article. The authority has the power to review, approve or deny cooperative agreements, ascertain that they are beneficial to citizens of the state and to medical education, to ensure compliance with the provisions of the cooperative agreements relative to the commitments made by the qualified hospital and conditions imposed by the Health Care Authority.

(d) Cooperative Agreements. —
(1) A qualified hospital may negotiate and enter into a cooperative agreement with other hospitals or health care providers in the state:

(A) In order to enhance or preserve medical education opportunities through collaborative efforts and to ensure and maintain the economic viability of medical education in this state and to achieve the goals hereinafter set forth; and

(B) When the likely benefits outweigh any disadvantages attributable to a reduction in competition that may result from the proposed cooperative agreement.

(2) The goal of any cooperative agreement would be to:

(A) Improve access to care;
(B) Advance health status;
(C) Target regional health issues;
(D) Promote technological advancement;
(E) Ensure accountability of the cost of care;
(F) Enhance academic engagement in regional health;
(G) Preserve and improve medical education opportunities;
(H) Strengthen the workforce for health-related careers; and
(I) Improve health entity collaboration and regional integration, where appropriate.

(3) A qualified hospital located in this state may submit an application for approval of a proposed cooperative agreement to the authority. The application shall state in detail the nature of the proposed arrangement including the goals and methods for achieving:
(A) Population health improvement;
(B) Improved access to health care services;
(C) Improved quality;
(D) Cost efficiencies;
(E) Ensuring affordability of care;
(F) Enhancing and preserving medical education programs; and
(G) Supporting the authority’s goals and strategic mission, as applicable.

(4) (A) An application for review of a cooperative agreement as provided in this section shall be submitted and approved prior to the finalization of the cooperative agreement, if the cooperative agreement involves the merger, consolidation or acquisition of a hospital located within a distance of twenty highway miles of the main campus of the qualified hospital.

(B) In reviewing an application for cooperative agreement, the authority shall give deference to the policy statements of the Federal Trade Commission.

(C) If an application for a review of a cooperative agreement is not required the qualified hospital may apply to the authority for approval of the cooperative agreement either before or after the finalization of the cooperative agreement.

(e) Procedure for review of cooperative agreements. —

(1) Upon receipt of an application, the authority shall determine whether the application is complete. If the authority determines the application is incomplete, it shall notify the applicant in writing of additional items required to complete the application. A copy of the complete application shall be provided by the parties to the Office of
the Attorney General simultaneous with the submission to
the authority. If an applicant believes the materials
submitted contain proprietary information that is required to
remain confidential, such information must be clearly
identified and the applicant shall submit duplicate
applications, one with full information for the authority’s
use and one redacted application available for release to the
public.

(2) The authority shall upon receipt of a completed
application, publish notification of the application on its
website as well as provide notice of such application placed
in the State Register. The public may submit written
comments regarding the application within ten days
following publication. Following the close of the written
comment period, the authority shall review the application
as set forth in this section. Within thirty days of the receipt
of a complete application the authority may:

(i) Issue a certificate of approval which shall contain any
conditions the authority finds necessary for the approval;

(ii) Deny the application; or

(iii) Order a public hearing if the authority finds it
necessary to make an informed decision on the application.

(3) The authority shall issue a written decision within
seventy-five days from receipt of the completed application.
The authority may request additional information in which
case they shall have an additional fifteen days following
receipt of the supplemental information to approve or deny
the proposed cooperative agreement.

(4) Notice of any hearing shall be sent by certified mail
to the applicants and all persons, groups or organizations
who have submitted written comments on the proposed
cooperative agreement. Any individual, group or
organization who submitted written comments regarding
the application and wishes to present evidence at the public
hearing shall request to be recognized as an affected party
as set forth in article two-d of this chapter. The hearing shall
be held no later than forty-five days after receipt of the
application. The authority shall publish notice of the hearing
on the authority’s website fifteen days prior to the hearing.
The authority shall additionally provide timely notice of
such hearing in the State Register.

(5) Parties may file a motion for an expedited decision.

(f) Standards for review of cooperative agreements. —

(1) In its review of an application for approval of a
cooperative agreement submitted pursuant to this section,
the authority may consider the proposed cooperative
agreement and any supporting documents submitted by the
applicant, any written comments submitted by any person
and any written or oral comments submitted, or evidence
presented, at any public hearing.

(2) The authority shall consult with the Attorney
General of this state regarding his or her assessment of
whether or not to approve the proposed cooperative
agreement.

(3) The authority shall approve a proposed cooperative
agreement and issue a certificate of approval if it
determines, with the written concurrence of the Attorney
General, that the benefits likely to result from the proposed
cooperative agreement outweigh the disadvantages likely to
result from a reduction in competition from the proposed
cooperative agreement.

(4) In evaluating the potential benefits of a proposed
cooperative agreement, the authority shall consider whether
one or more of the following benefits may result from the
proposed cooperative agreement:

(A) Enhancement and preservation of existing academic
and clinical educational programs;
(B) Enhancement of the quality of hospital and hospital-related care, including mental health services and treatment of substance abuse provided to citizens served by the authority;

(C) Enhancement of population health status consistent with the health goals established by the authority;

(D) Preservation of hospital facilities in geographical proximity to the communities traditionally served by those facilities to ensure access to care;

(E) Gains in the cost-efficiency of services provided by the hospitals involved;

(F) Improvements in the utilization of hospital resources and equipment;

(G) Avoidance of duplication of hospital resources;

(H) Participation in the state Medicaid program; and

(I) Constraints on increases in the total cost of care.

(5) The authority’s evaluation of any disadvantages attributable to any reduction in competition likely to result from the proposed cooperative agreement shall include, but need not be limited to, the following factors:

(A) The extent of any likely adverse impact of the proposed cooperative agreement on the ability of health maintenance organizations, preferred provider organizations, managed health care organizations or other health care payors to negotiate reasonable payment and service arrangements with hospitals, physicians, allied health care professionals or other health care providers;

(B) The extent of any reduction in competition among physicians, allied health professionals, other health care providers or other persons furnishing goods or services to, or in competition with, hospitals that is likely to result
(C) The extent of any likely adverse impact on patients in the quality, availability and price of health care services; and

(D) The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the proposed cooperative agreement.

(6) (A) After a complete review of the record, including, but not limited to, the factors set out in subsection (e) of this section, any commitments made by the applicant or applicants and any conditions imposed by the authority, if the authority determines that the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement, the authority shall approve the proposed cooperative agreement.

(B) The authority may reasonably condition approval upon the parties’ commitments to:

(i) Achieving improvements in population health;

(ii) Access to health care services;

(iii) Quality and cost efficiencies identified by the parties in support of their application for approval of the proposed cooperative agreement; and

(iv) Any additional commitments made by the parties to the cooperative agreement.

Any conditions set by the authority shall be fully enforceable by the authority. No condition imposed by the authority, however, shall limit or interfere with the right of
a hospital to adhere to religious or ethical directives established by its governing board.

(7) The authority’s decision to approve or deny an application shall constitute a final order or decision pursuant to the West Virginia Administrative Procedure Act (§ 29A-1-1, et seq.). The authority may enforce commitments and conditions imposed by the authority in the circuit court of Kanawha County or the circuit court where the principal place of business of a party to the cooperative agreement is located.

(g) Enforcement and supervision of cooperative agreements. — The authority shall enforce and supervise any approved cooperative agreement for compliance.

(1) The authority is authorized to promulgate legislative rules in furtherance of this section. Additionally, the authority shall promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to accomplish the goals of this section. These rules shall include, at a minimum:

(A) An annual report by the parties to a cooperative agreement. This report is required to include:

(i) Information about the extent of the benefits realized and compliance with other terms and conditions of the approval;

(ii) A description of the activities conducted pursuant to the cooperative agreement, including any actions taken in furtherance of commitments made by the parties or terms imposed by the authority as a condition for approval of the cooperative agreement;

(iii) Information relating to price, cost, quality, access to care and population health improvement;

(iv) Disclosure of any reimbursement contract between a party to a cooperative agreement approved pursuant to this
section and a commercial health plan or insurer entered into subsequent to the finalization of the cooperative agreement. This shall include the amount, if any, by which an increase in the average rate of reimbursement exceeds, with respect to inpatient services for such year, the increase in the Consumer Price Index for all Urban Consumers for hospital inpatient services as published by the Bureau of Labor Statistics for such year and, with respect to outpatient services, the increase in the Consumer Price Index for all Urban Consumers for hospital outpatient services for such year; and

(v) Any additional information required by the authority to ensure compliance with the cooperative agreement.

(B) If an approved application involves the combination of hospitals, disclosure of the performance of each hospital with respect to a representative sample of quality metrics selected annually by the authority from the most recent quality metrics published by the Centers for Medicare and Medicaid Services. The representative sample shall be published by the authority on its website.

(C) A procedure for a corrective action plan where the average performance score of the parties to the cooperative agreement in any calendar year is below the fiftieth percentile for all United States hospitals with respect to the quality metrics as set forth in (B) of this subsection. The corrective action plan is required to:

(i) Be submitted one hundred twenty days from the commencement of the next calendar year; and

(ii) Provide for a rebate to each commercial health plan or insurer with which they have contracted an amount not in excess of one percent of the amount paid to them by such commercial health plan or insurer for hospital services during such two-year period if in any two consecutive-year period the average performance score is below the fiftieth percentile for all United States hospitals. The amount to be
rebated shall be reduced by the amount of any reduction in
reimbursement which may be imposed by a commercial
health plan or insurer under a quality incentive or awards
program in which the hospital is a participant.

(D) A procedure where if the excess above the increase
in the Consumer Price Index for all Urban Consumers for
hospital inpatient services or hospital outpatient services is
two percent or greater the authority may order the rebate of
the amount which exceeds the respective indices by two
percent or more to all health plans or insurers which paid
such excess unless the party provides written justification of
such increase satisfactory to the authority taking into
account case mix index, outliers and extraordinarily high
cost outpatient procedure utilizations.

(E) The ability of the authority to investigate, as needed,
to ensure compliance with the cooperative agreement.

(F) The ability of the authority to take appropriate
action, including revocation of a certificate of approval, if it
determines that:

(i) The parties to the agreement are not complying with
the terms of the agreement or the terms and conditions of
approval;

(ii) The authority’s approval was obtained as a result of
an intentional material misrepresentation;

(iii) The parties to the agreement have failed to pay any
required fee; or

(iv) The benefits resulting from the approved agreement
no longer outweigh the disadvantages attributable to the
reduction in competition resulting from the agreement.

(G) If the authority determines the parties to an
approved cooperative agreement have engaged in conduct
that is contrary to state policy or the public interest,
including the failure to take action required by state policy
or the public interest, the authority may initiate a proceeding to determine whether to require the parties to refrain from taking such action or requiring the parties to take such action, regardless of whether or not the benefits of the cooperative agreement continue to outweigh its disadvantages. Any determination by the authority shall be final. The authority is specifically authorized to enforce its determination in the circuit court of Kanawha County or the circuit court where the principal place of business of a party to the cooperative agreement is located.

(H) Fees as set forth in subsection (h).

(2) Until the promulgation of the emergency rules, the authority shall monitor and regulate cooperative agreements to ensure that their conduct is in the public interest and shall have the powers set forth in subdivision (1) of this subsection, including the power of enforcement set forth in paragraph (G), subdivision (1) of this subsection.

(h) Fees. — The authority may set fees for the approval of a cooperative agreement. These fees shall be for all reasonable and actual costs incurred by the authority in its review and approval of any cooperative agreement pursuant to this section. These fees shall not exceed $75,000. Additionally, the authority may assess an annual fee not to exceed $75,000 for the supervision of any cooperative agreement approved pursuant to this section and to support the implementation and administration of the provisions of this section.

(i) Miscellaneous provisions. —

(1) (A) An agreement entered into by a hospital party to a cooperative agreement and any state official or state agency imposing certain restrictions on rate increases shall be enforceable in accordance with its terms and may be considered by the authority in determining whether to approve or deny the application. Nothing in this chapter shall undermine the validity of any such agreement between
a hospital party and the Attorney General entered before the effective date of this legislation.

(B) At least ninety days prior to the implementation of any increase in rates for inpatient and outpatient hospital services and at least sixty days prior to the execution of any reimbursement agreement with a third party payor, a hospital party to a cooperative agreement involving the combination of two or more hospitals through merger, consolidation or acquisition which has been approved by the authority shall submit any proposed increase in rates for inpatient and outpatient hospital services and any such reimbursement agreement to the Office of the West Virginia Attorney General together with such information concerning costs, patient volume, acuity, payor mix and other data as the Attorney General may request. Should the Attorney General determine that the proposed rates may inappropriately exceed competitive rates for comparable services in the hospital’s market area which would result in unwarranted consumer harm or impair consumer access to health care, the Attorney General may request the authority to evaluate the proposed rate increase and to provide its recommendations to the Office of the Attorney General. The Attorney General may approve, reject or modify the proposed rate increase and shall communicate his or her decision to the hospital no later than 30 days prior to the proposed implementation date. The hospital may then only implement the increase approved by the Attorney General. Should the Attorney General determine that a reimbursement agreement with a third party payor includes pricing terms at anti-competitive levels, the Attorney General may reject the reimbursement agreement and communicate such rejection to the parties thereto together with the rationale therefor in a timely manner.

(2) The authority shall maintain on file all cooperative agreements the authority has approved, including any conditions imposed by the authority.
(3) Any party to a cooperative agreement that terminates its participation in such cooperative agreement shall file a notice of termination with the authority thirty days after termination.

(4) No hospital which is a party to a cooperative agreement for which approval is required pursuant to this section may knowingly bill or charge for health services resulting from, or associated with, such cooperative agreement until approved by the authority. Additionally, no hospital which is a party to a cooperative agreement may knowingly bill or charge for health services resulting from, or associated with, such cooperative agreement for which approval has been revoked or terminated.

(5) By submitting an application for review of a cooperative agreement pursuant to this section, the hospitals or health care providers shall be deemed to have agreed to submit to the regulation and supervision of the authority as provided in this section.

§16-29B-30. Applicability; transition plan.

(a) Notwithstanding any provision of this code to the contrary, effective July 1, 2017, the Health Care Authority shall transfer to the Department of Health and Human and Resources. Any and all remaining functions of the Health Care Authority shall transfer at that time to the Department of Health and Human Resources.

(b) The Health Care Authority shall develop and implement a transition plan to transfer all their remaining functions to the Department of Health and Human Resources. The plan shall be submitted in writing to the Joint Committee on Government and Finance, the Governor and the Secretary of the Department of Health and Human Resources, the Secretary of the Department of Administration and the Division of Personnel. This plan shall be submitted no later than June 1, 2017. The plan shall include proposals for the following:
(1) Transition to appropriate entities or destruction of hard and electronic copies of files;

(2) Transfer of all certificate of need matters pending as of July 1, 2017, to the Department of Health and Human Resources.

(3) In consultation with the Department of Administration, discontinuation of use of the current building including termination of any lease or rental agreements, if necessary;

(4) In consultation with the Department of Administration, disposition of all state owned or leased office furniture and equipment, including any state owned vehicles, if necessary;

(5) Closing out and transferring existing budget allocations;

(6) A transition plan developed in conjunction with the Division of Personnel for remaining employees not transferred to other offices within state government;

(7) A plan to repeal all existing legislative rules made unnecessary by the transfer of the Health Care Authority; and

(8) Any other matters which would effectively terminate all functions not transferred to the Department of Health and Human Resources.

(9) Upon the effective date of the changes to this article made during the course of the 2017 Regular Session of the Legislature, any function of the Health Care Authority not otherwise eliminated or transferred shall become a function of the Department of Health and Human Resources.

ARTICLE 29G. WEST VIRGINIA HEALTH INFORMATION NETWORK.
§16-29G-1a. Transfer of West Virginia Health Information Network.

(a) As used in this article, the following mean:

(1) “Agreement” means a document that may be entered into between the network board and the corporation;

(2) “Assets” means the tangible and intangible personal property of the network on the transfer date, including all assignable grants, all obligated funds on deposit in the network account, agreements and contracts;

(3) “Corporation” means any nonstock, nonprofit corporation to be established under the chapter thirty-one;

(4) “Network” means the West Virginia Health Information Network; and

(5) “Network account” means the West Virginia Health Information Network Account.

(b) By December 31, 2017, the network board of directors shall transfer the existing network, the associated assets and liabilities to a private nonprofit corporation organized under chapter thirty-one e of this code.

(c) The network board of directors may enter into agreements as they determine are appropriate to implement the transfer. The agreements are exempt from the bidding and public sale requirements, from the approval of contractual agreements by the Department of Administration or the Attorney General and from the requirements of chapter five-a of this code.

(d) The initial corporation board of directors may consist of any current members of the network board of directors. The current appointed network directors shall continue to serve until the transfer is complete. Notwithstanding any other provisions of this code to the contrary, officers and employees of the network may be
transferred considered for employment with to the corporation, and any such employment shall be deemed exempt from the requirements and limitations imposed by section five, article two, chapter six-B and any legislative rules promulgated thereunder.

(e) The corporation shall have all powers afforded to a nonprofit corporation by law and is limited to those powers enumerated in this article.

(f) The corporation shall not be a department, unit, agency or instrumentality of the state.

(g) The corporation is not subject to the provisions of article nine-a, chapter six of this code, Open Government Proceeding; the provisions of article two, chapter six-c of this code, the West Virginia Public Employees Grievance Procedure; the provisions of article six, chapter twenty-nine of this code, Civil Service System; or the provisions of chapter twenty-nine-b of this code, Freedom of Information; article twelve, chapter twenty-nine of this code, State Insurance; article ten, chapter five, of this code, West Virginia Public Employees Retirement Act, or the provisions of article sixteen, chapter five, of this code, West Virginia Public Employees Insurance Act.

(h) The Secretary of the Department of Health and Human Resources may designate the corporation as the state’s health information exchange, and shall have the authority to make sole source grants or enter into sole source contracts with the corporation pursuant to section ten-c, article three, chapter five-a of this code.

(i) The Secretary of the Department of Health and Human Resources shall have access to the data free of charge subject to the provisions of applicable state and federal law.
§16-29G-4. Creation of the West Virginia Health Information Network account; authorization of Health Care Authority to expend funds to support the network.

(a) All moneys collected shall be deposited in a special revenue account in the state Treasury known as the West Virginia Health Information Network Account. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: Provided, That for the fiscal year ending June 30, 2007, expenditures are authorized from collections rather than pursuant to appropriations by the Legislature.

(b) Consistent with section eight, article twenty-nine-b of this chapter, the Health Care Authority’s provision of administrative, personnel, technical and other forms of support to the network is necessary to support the activities of the Health Care Authority board and constitutes a legitimate, lawful purpose of the Health Care Authority board. Therefore, the Health Care Authority is hereby authorized to expend funds from its Health Care Cost Review Fund, established under section eight, article twenty-nine-b of this chapter, to support the network’s administrative, personnel and technical needs and any other network activities the Health Care Authority deems necessary.

(c) Notwithstanding section ten, article three, chapter twelve of this code, on the transfer date, the encumbered amounts on deposit in the West Virginia Health Information Network Account shall be paid over to the corporation, the account shall be closed and subsection (a) of this section shall be of no further effect.

CHAPTER 21. LABOR.
ARTICLE 5. NURSE OVERTIME AND PATIENT SAFETY ACT.

§21-5F-4. Enforcement; offenses and penalties.

(a) Pursuant to the powers set forth in article one of this chapter, the Commissioner of Labor is charged with the enforcement of this article. The commissioner shall propose legislative and procedural rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish procedures for enforcement of this article. These rules shall include, but are not limited to, provisions to protect due process requirements, a hearings procedure, an appeals procedure, and a notification procedure, including any signs that must be posted by the facility.

(b) Any complaint must be filed with the commissioner regarding an alleged violation of the provisions of this article must be made within thirty days following the occurrence of the incident giving rise to the alleged violation. The commissioner shall keep each complaint anonymous until the commissioner finds that the complaint has merit. The commissioner shall establish a process for notifying a hospital of a complaint.

(c) The administrative penalty for the first violation of this article is a reprimand.

(d) The administrative penalty for the second offense of this article is a reprimand and a fine not to exceed $500.

(e) The administrative penalty for the third and subsequent offenses is a fine of not less than $2,500 and not more than $5,000 for each violation.

(f) To be eligible to be charged of a second offense or third offense under this section, the subsequent offense must occur within twelve months of the prior offense.
CHAPTER 33. INSURANCE.

ARTICLE 16D. MARKETING AND RATE PRACTICES FOR SMALL EMPLOYER ACCIDENT AND SICKNESS INSURANCE POLICIES.

§33-4A-1. Definitions.

(a) “All-payer claims database” or “APCD” means the program authorized by this article that collects, retains, uses and discloses information concerning the claims and administrative expenses of health care payers.

(b) “Commissioner” means the West Virginia Insurance Commissioner.

(c) “Data” means the data elements from enrollment and eligibility files, specified types of claims, and reference files for data elements not maintained in formats consistent with national coding standards.

(d) “Executive Director” means the executive director of the West Virginia Health Care Authority.

(e) “Health care payer” means any entity that pays or administers the payment of health insurance claims or medical claims under workers’ compensation insurance to providers in this state, including workers’ compensation insurers; accident and sickness insurers; nonprofit hospital service corporations, medical service corporations and dental service organizations; nonprofit health service corporations; prepaid limited health service organizations; health maintenance organizations; and government payers, including but not limited to Medicaid, Medicare and the public employees insurance agency; the term also includes any third-party administrator including any pharmacy...
A “health insurance claim” does not include:

(1) Any claim paid under an individual or group policy providing coverage only for accident, or disability income insurance or any combination thereof; coverage issued as a supplement to liability insurance; liability insurance, including general liability insurance and automobile liability; credit-only insurance; coverage for on-site medical clinics; other similar insurance coverage, which may be specified by rule, under which benefits for medical care are secondary or incidental to other insurance benefits; or

(2) Any of the following if provided under a separate policy, certificate, or contract of insurance: Limited scope dental or vision benefits: benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; coverage for only a specified disease or illness; or hospital indemnity or other fixed indemnity insurance.

“Health insurance claims” shall only include information from Medicare supplemental policies if the same information is obtained with respect to Medicare.

(f) “Personal identifiers” means information relating to an individual member or insured that identifies, or can be used to identify, locate or contact a particular individual member or insured, including but not limited to the individual’s name, street address, social security number, e-mail address and telephone number.

(g) “Secretary” means the Secretary of the West Virginia Department of Health and Human Services.

(h) “Third-party administrator” has the same meaning ascribed to it in section two, article forty-six of this chapter.
§33-4A-2. Establishment and development of an all-payer claims database.

(a) The secretary, commissioner and the executive director, collectively referred to herein as the “MOU parties”, shall enter into a memorandum of understanding to develop an all-payer claims database program.

(b) The memorandum of understanding shall, at a minimum:

1. Provide that the commissioner will have primary responsibility for the collection of the data in order to facilitate the efficient administration of state oversight, the secretary will have primary responsibility for the retention of data supplied to the state under its health care oversight function, and the executive director will have primary responsibility for the dissemination of the data;

2. Delineate the MOU parties’ roles, describe the process to develop legislative rules required by this article, establish communication processes and a coordination plan, and address vendor relationship management;

3. Provide for the development of a plan for the financial stability of the APCD, including provision for funding by the MOU parties’ agencies; and

4. Provide for the use of the hospital discharge data collected by the West Virginia Health Care Authority as a tool in the validation of APCD reports.

§33-4A-3. Powers of the commissioner, secretary and executive director; exemption from purchasing rules.

(a) The MOU parties may:

1. Accept gifts, bequests, grants or other funds dedicated to the furtherance of the goals of the APCD;
(2) Select a vendor to handle data collection and processing and such other tasks as deemed appropriate;

(3) Enter into agreements with other states to perform joint administrative operations, share information and assist in the development of multistate efforts to further the goals of this article: Provided, That any such agreements must include adequate protections with respect to the confidentiality of the information to be shared and comply with all state and federal laws and regulations;

(4) Enter into memoranda of understanding with other governmental agencies to carry out any of its functions, including contracts with other states to perform joint administrative functions;

(5) Attempt to ensure that the requirements with respect to the reporting of data be standardized so as to minimize the expense to parties subject to similar requirements in other jurisdictions;

(6) Enter into voluntary agreements to obtain data from payers not subject to mandatory reporting under this article; and

(7) Exempt a payer or class of payers from the requirements of this article for cause.

(b) Contracts for professional services for the development and operation of the APCD are not subject to the provisions of article three, chapter five-a of this code relating to the Purchasing Division of the Department of Administration. The award of such contracts shall be subject to a competitive process established by the MOU parties.

(c) The MOU parties shall make an annual report to the Governor, which shall also be filed with the Joint Committee on Government and Finance, summarizing the activities of the APCD in the preceding calendar year.

§33-4A-5. User fees; waiver.
Reasonable user fees may be set in the manner established in legislative rule, for the right to access and use the data available from the APCD. The executive director may reduce or waive the fee if he or she determines that the user is unable to pay the scheduled fees and that the user has a viable plan to use the data or information in research of general value to the public health.

§33-4A-6. Enforcement; injunctive relief.

In the event of any violation of this article or any rule adopted thereunder, the commissioner, secretary or executive director may seek to enjoin a further violation in the circuit court of Kanawha County. Injunctive relief ordered pursuant to this section may be in addition to any other remedies and enforcement actions available to the commissioner under this chapter.

§33-4A-7. Special revenue account created.

(a) There is hereby created a special revenue account in the State Treasury, designated the West Virginia All-Payer Claims Database Fund, which shall be an interest-bearing account and may be invested in the manner permitted by article six, chapter twelve of this code, with the interest income a proper credit to the fund and which shall not revert to the general revenue, unless otherwise designated in law. The fund shall be overseen by the commissioner, secretary and executive director, shall be administered by the commissioner, and shall be used to pay all proper costs incurred in implementing the provisions of this article.

(b) The following funds shall be paid into this account:

(1) Penalties imposed on health care payers pursuant to this article and rules promulgated hereunder;

(2) Funds received from the federal government;

(3) Appropriations from the Legislature; and

(a) Upon filing with and approval by the commissioner, any carrier licensed pursuant to this chapter which accesses a health care provider network to deliver services may offer a health benefit plan and rates associated with the plan to a small employer subject to the conditions of this section and subject to the provisions of this article. The health benefit plan is subject to the following conditions:

(1) The health benefit plan may be offered by the carrier only to small employers which have not had a health benefit plan covering their employees for at least six consecutive months before the effective date of this section. After the passage of six months from the effective date of this section, the health benefit plan under this section may be offered by carriers only to small employers which have not had a health benefit plan covering their employees for twelve consecutive months;

(2) If a small employer covered by a health benefit plan offered pursuant to this section no longer meets the definition of a small employer as a result of an increase in eligible employees, that employer shall remain covered by the health benefit plan until the next annual renewal date;

(3) The small employer shall pay at least fifty percent of its employees’ premium amount for individual employee coverage;

(4) The commissioner shall promulgate emergency rules under the provisions of article three, chapter twenty-nine-a of this code on or before September 1, 2004, to place
additional restrictions upon the eligibility requirements for health benefit plans authorized by this section in order to prevent manipulation of eligibility criteria by small employers and otherwise implement the provisions of this section;

(5) Carriers must offer the health benefit plans issued pursuant to this section through one of their existing networks of health care providers;

(A) The Insurance Commission shall, on or before May 1, 2004, and each year thereafter, by regular mail, provide a written notice to all known in-state health care providers that:

(i) Informs the health care provider regarding the provisions of this section; and

(ii) Notifies the health care provider that if the health care provider does not give written refusal to the Insurance Commission within thirty days from receipt of the notice or the health care provider has not previously filed a written notice of refusal to participate, the health care provider must participate with and accept the products and provider reimbursements authorized pursuant to this section;

(B) The carrier’s network of health care providers, as well as any health care provider which provides health care goods or services to beneficiaries of any departments or divisions of the state, as identified in article twenty-nine-d, chapter sixteen of this code, shall accept the health care provider reimbursement rates set pursuant to this section unless the health care provider gives written refusal to the Insurance Commission between May 1 and June 1 that the provider will not participate in this program for the next calendar year. Notwithstanding any provision of this code to the contrary, health care providers may not be mandated to participate in this program except under the opt-out provisions of subdivision (5), subsection (a) of this section and therefore the health care provider shall annually have
the ability to file with the Insurance Commission written notice that the health care provider will not participate with products issued pursuant to this section. Once a health care provider has filed a notice of refusal with the Insurance Commission, the notice shall remain effective until rescinded by the provider and the provider shall not be required to renew the notice each year;

(C) Insurance Commission is responsible for receiving the responses, if any, from the health care providers that have elected not to participate and for providing a list to the commissioner of those health care providers that have elected not to participate;

(D) Those health care providers that do not file a notice of refusal shall be considered to have accepted participation in this program and to accept Public Employees Insurance Agency health care provider reimbursement rates for their services as set by this section;

(E) Health care provider reimbursement rates used by the carrier for a health benefit plan offered pursuant to this section shall have no effect on provider rates for other products offered by the carrier and most-favored-nation clauses do not apply to the rates;

(6) With respect to the health benefit plans authorized by this section, the carrier shall reimburse network health care providers at the same health care provider reimbursement rates in effect for the managed care and health maintenance organization plans offered by the West Virginia Public Employees Insurance Agency. Beginning in the year 2004, and in each year thereafter, the health care provider reimbursement rates set under this section may not be lowered from the level of the rates in effect on July 1 of that year for the managed care and health maintenance plans offered by the Public Employees Insurance Agency. While it is the intent of this paragraph to govern rates for plans offered pursuant to this section for annual periods, this subdivision in no way prevents the Public Employees
Insurance Agency from making provider reimbursement rate adjustments to Public Employees Insurance Agency plans during the course of each year. If there is a dispute regarding the determination of appropriate rates pursuant to this section, the Director of the Public Employees Insurance Agency shall, in his or her sole discretion, specify the appropriate rate to be applied;

(A) The health care provider reimbursement rates as authorized by this section shall be accepted by the health care provider as payment in full for services or products provided to a person covered by a product authorized by this section;

(B) Except for the health care provider rates authorized under this section, a carrier’s payment methodology, including copayments and deductibles and other conditions of coverage, remains unaffected by this section;

(C) The provisions of this section do not require the Public Employees Insurance Agency to give carriers access to the purchasing networks of the Public Employees Insurance Agency. The Public Employees Insurance Agency may enter into agreements with carriers offering health benefit plans under this section to permit the carrier, at its election, to participate in drug purchasing arrangements pursuant to article sixteen-c, chapter five of this code, including the multistate drug purchasing program. This paragraph provides authorization of the agreements pursuant to section four of said article;

(7) Carriers may not underwrite products authorized by this section more strictly than other small group policies governed by this article;

(8) With respect to health benefit plans authorized by this section, a carrier shall have a minimum anticipated loss ratio of seventy-seven percent to be eligible to make a rate increase request after the first year of providing a health benefit plan under this section;
(9) Products authorized under this section are exempt from the premium taxes assessed under sections fourteen and fourteen-a, article three of this chapter;

(10) A carrier may elect to nonrenew any health benefit plan to an eligible employer if, at any time, the carrier determines, by applying the same network criteria which it applies to other small employer health benefit plans, that it no longer has an adequate network of health care providers accessible for that eligible small employer. If the carrier makes a determination that an adequate network does not exist, the carrier has no obligation to obtain additional health care providers to establish an adequate network;

(11) Upon thirty days’ advance notice to the commissioner, a carrier may, at any time, elect to nonrenew all health benefit plans issued pursuant to this section. If a carrier nonrenews all its business issued pursuant to this section for any reason other than the adequacy of the provider network, the carrier may not offer this health benefit plan to any eligible small employer for a period of at least two years after the last eligible small employer is nonrenewed; and

(12) The Insurance Commissioner may not approve any health benefit plan issued pursuant to this section until it has obtained any necessary federal governmental authorizations or waivers. The Insurance Commissioner shall apply for and obtain all necessary federal authorizations or waivers.

(b) Health benefit plans authorized by this section are not intended to violate the prohibition set out in subsection (a), section four of this article.

(c) Carriers offering health benefit plans pursuant to this section shall annually or before December 1 of each year report in a form acceptable to the commissioner the number of health benefit plans written by the carrier and the number of individuals covered under the health benefit plans.
(d) To the extent that provisions of this section differ from those contained elsewhere in this chapter, the provisions of this section control.

CHAPTER 186

(Com. Sub. for H. B. 2002 - By Delegates Kessinger, Fast, A. Evans, R. Romine, Frich, Arvon, Butler, Rowan, Wilson, Paynter and Lane)

[Passed April 8, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 26, 2017.]

AN ACT to amend and reenact §16-2F-1, §16-2F-2, §16-2F-3, §16-2F-4, §16-2F-5, §16-2F-6 and §16-2F-8 of the Code of West Virginia, 1931, as amended, all relating to parental notification of abortions performed on unemancipated minors; setting out legislative findings; defining terms; clarifying parental notification requirements prior to performing an abortion on an unemancipated minor; modifying waiver language; providing exceptions; providing a judicial process to not permit parental notification; requiring parental notice following abortion due to medical emergency; requiring reporting; providing for disciplinary actions; and modifying penalties.

Be it enacted by the Legislature of West Virginia:

That §16-2F-1, §16-2F-2, §16-2F-3, §16-2F-4, §16-2F-5, §16-2F-6 and §16-2F-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted; all to read as follows:

ARTICLE 2F. PARENTAL NOTIFICATION OF ABORTIONS PERFORMED ON UNEMANCIPATED MINORS.

§16-2F-1. Legislative findings and intent.
(a) The Legislature finds that immature minors often lack the ability to make fully informed choices that take into account both immediate and long-range consequences of their actions; that the medical, emotional and psychological consequences of abortion are serious and of indeterminate duration, particularly when the patient is immature; that in its current abortion policy as expressed in Bellotti v. Baird, 443 U.S. 622 (1979), H. L. v. Matheson, 450 U.S. 398 (1981), and Hodgson v. Minnesota, 497 U.S. 417, (1990), the United States Supreme Court held that notification of a parent with a judicial waiver procedure is Constitutional; that parents ordinarily possess information essential to a physician’s exercise of his or her best medical judgment concerning their child; and that parents who are aware that their minor daughter has had an abortion may better ensure that the minor receives adequate medical attention after her abortion.

(b) The Legislature further finds that parental consultation regarding abortion is usually desirable and in the best interests of the minor.

(c) The Legislature further finds there exists important and compelling state interests:

(1) In protecting minors against their own immaturity,

(2) In fostering the family structure and preserving it as a viable social unit, and

(3) In protecting the rights of parents to rear their own children in their own household.

(d) It is, therefore, the intent of the Legislature to further these important and compelling state interests by enacting this parental notice provision.

§16-2F-2. Definitions.

For purposes of this article, unless the context in which used clearly requires otherwise:
As used in this article:

1. “Abortion” means the use of any instrument, medicine, drug or any other substance or device with intent to terminate the pregnancy of a female known to be pregnant and with intent to cause the expulsion of a fetus other than by live birth. This article does not prevent the prescription, sale or transfer of intrauterine contraceptive devices, other contraceptive devices or other generally medically accepted contraceptive devices, instruments, medicines or drugs for a female who is not known to be pregnant and for whom the contraceptive devices, instruments, medicines or drugs were prescribed by a physician solely for contraceptive purposes and not for the purpose of inducing or causing the termination of a known pregnancy.

2. “Medical emergency” means the same as that term is defined in section two, article two-m of this chapter.

3. “Secretary” means the Secretary of the West Virginia Department of Health and Human Resources.

4. “Unemancipated minor” means any person less than eighteen years of age who is not, or has not been, married, who is under the care, custody and control of the person’s parent or parents, guardian or court of competent jurisdiction pursuant to applicable federal law or as provided in section twenty-seven, article seven, chapter forty-nine of this code.

§16-2F-3. Parental notification required for abortions performed on unemancipated minors.

1. (a) A physician may not perform an abortion upon an unemancipated minor until notice of the pending abortion as required by this section is complete.

2. (b) A physician or his or her agent may personally give notice directly, in person, by telephone or by letter to the parent, the guardian or conservator of the unemancipated minor at their usual place of residence and shall be delivered
personally by the physician or his or her agent. Upon
delivery of the notice, forty-eight hours shall pass until the
abortion may be performed.

(c) A physician or his or her agent may provide notice
by certified mail addressed to the parent, the guardian or
conservator of the unemancipated minor at their usual place
of residence, return receipt requested. The delivery shall be
sent restricted delivery assuring that the letter is delivered
only to the addressee. Time of delivery shall be deemed to
occur at twelve o’clock noon on the next day on which
regular mail delivery takes place unless. Upon delivery of
the notice, forty-eight hours shall pass until the abortion
may be performed.

(d) Notice may be waived if the person entitled to notice
certifies in writing that he or she has been notified.

§16-2F-4. Process to obtain waiver of notification.

(a) An unemancipated minor who objects to the notice
being given to her parent or legal guardian may petition for
a waiver of the notice to the circuit court of the county in
which the unemancipated minor resides or in which the
abortion is to be performed, or to the judge of either of such
courts.

(b) The petition need not be made in any specific form
and shall be sufficient if it fairly sets forth the facts and
circumstances of the matter, but shall contain the following
information:

(i) The age of the unemancipated minor and her
educational level;

(ii) The county and state in which she resides; and

(iii) A brief statement of unemancipated minor’s reason
or reasons for the desired waiver of notification of the parent
or guardian of such unemancipated minor.
No such petition shall be dismissed nor shall any hearing thereon be refused because of any defect in the form of the petition.

(c) The Attorney General shall prepare suggested form petitions and accompanying instructions and shall make the same available to the clerks of the circuit courts. The clerks shall make the form petitions and instructions available in the clerks' office.

(d) The proceedings held pursuant to this article shall be confidential and the court shall conduct the proceedings in camera. The court shall inform the unemancipated minor of her right to be represented by counsel. If the unemancipated minor is without the requisite funds to retain the services of an attorney, the court will appoint an attorney to represent the unemancipated minor's interest in the matter. If the unemancipated minor desires the services of an attorney, an attorney shall be appointed to represent the unemancipated minor, if the unemancipated minor advises the court under oath or affidavit that the unemancipated minor is financially unable to retain counsel. An attorney appointed to represent the unemancipated minor shall be appointed and paid for his services pursuant to the provisions of article twenty-one, chapter twenty-nine of this code. The pay shall not exceed the sum of $100.

(e) The court shall conduct a hearing upon the petition without delay, but may not exceed the next succeeding judicial day. The court shall render its decision immediately upon its submission and, its written order not later than twenty-four hours and entered in the record by the clerk of the court. All testimony, documents, evidence, petition, orders entered thereon and all records relating to the matter shall be sealed by the clerk and shall not be opened to any person except upon order of the court upon a showing of good cause. A separate order book for the purposes of this article shall be maintained by the clerk and shall be sealed and not open to inspection by any person save upon order of the court for good cause shown.
(f) Notice as required by section three of this article shall be ordered waived by the court if the court finds either:

(1) That the unemaciated minor is mature and well informed sufficiently to make the decision to proceed with the abortion independently and without the notification or involvement of her parent or legal guardian; or

(2) That notification to the person or persons to whom notification would otherwise be required would not be in the best interest of the unemancipated minor.

(g) A confidential appeal shall be available to any unemancipated minor to whom a court denies an order authorizing an abortion without notification. An order authorizing an abortion without notification may not be appealed. Access to the trial court and the Supreme Court of Appeals shall be given to an unemancipated minor.

(h) Filing fees are not required of any unemancipated minor who avails herself of any of the procedures provided by this section.

§16-2F-5. Emergency exception from notification requirements.

(a) The notification requirements of section three of this article do not apply where the attending physician certifies that there is a need for an abortion to be performed due to a medical emergency. A description of the medical emergency shall be maintained with the unemancipated minor’s medical records.

(b) If the physician who is to perform the abortion concludes under subsection (a) of this section that a medical emergency exists and that there is insufficient time to provide the notice required by section three of this article, the physician shall make a reasonable effort to inform, in person or by telephone, the parent, managing conservator, or guardian of the unemancipated minor within 24 hours.
after the time a medical emergency abortion is performed on the minor of:

(1) The performance of the abortion; and

(2) The basis for the physician’s determination that a medical emergency existed that required the performance of a medical emergency abortion without fulfilling the requirements of section three.

(c) A physician who performs an abortion under the circumstances described in subsection (a) of this section shall, not later than 48 hours after the abortion is performed, send a written notice that a medical emergency occurred and that the parent, managing conservator, or guardian may contact the physician for more information and medical records, to the last known address of the parent, managing conservator, or guardian by certified mail, restricted delivery, return receipt requested. The physician may rely on last known address information if a reasonable and prudent person, under similar circumstances, would rely on the information as sufficient evidence that the parent, managing conservator, or guardian resides at that address. The physician shall keep in the minor’s medical record:

(1) The return receipt from the written notice; or

(2) If the notice was returned as undeliverable, the notice.

(d) A physician who performs an abortion on an unemancipated minor during a medical emergency as described in subsection (a) of this section shall execute for inclusion in the medical record of the minor an affidavit that explains the specific medical emergency that necessitated the immediate abortion.

§16-2F-6. Reporting requirements for physicians.

(a) A physician performing an abortion upon an unemancipated minor shall provide the secretary a written
report of the procedure within thirty days after having performed the abortion. The following information, in addition to any other information which may be required by the secretary, regarding an unemancipated minor receiving the abortion shall be included in the reporting form:

(1) Age;
(2) Educational level;
(3) Previous pregnancies;
(4) Previous live births;
(5) Previous abortions;
(6) Complications, if any, of the abortion being reported;
(7) Reason for waiver of notification, if such notice was waived; and
(8) The city and county in which the abortion was performed.

(b) The report shall not contain the name, address or other information by which the unemancipated minor receiving the abortion may be identified.

§16-2F-8. Penalties.

(a) Any physician or other licensed medical practitioner who intentionally or recklessly performs or induces an abortion in violation of this article is considered to have acted outside the scope of practice permitted by law or otherwise in breach of the standard of care owed to patients, and is subject to discipline from the applicable licensure board for that conduct, including, but not limited to, loss of professional license to practice.

(b) A person, not subject to subsection (a) of this section, who intentionally or recklessly performs or induces an abortion in violation of this article is considered to have engaged in the unauthorized practice of medicine in violation of section thirteen, article three, chapter thirty of
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-3-4a, relating to offering influenza immunizations to patients upon discharge from licensed hospitals; providing that the immunizations are voluntary; and providing for exceptions based upon availability and in cases where immunizations are contraindicated.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §16-3-4a, to read as follows:

ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER INFECTIOUS DISEASES.

§16-3-4a. Influenza Immunizations.

(a) A hospital licensed pursuant to the provisions of article five-b of this chapter shall offer to an inpatient who
is sixty-five years of age or older an influenza immunization prior to discharge from October 1 of every year and continuing through March 1 of the following year.

(b) The immunizations may not be offered in cases where the immunization is contraindicated.

c) The requirements of this section are subject to the availability for sufficient influenza immunizations.

d) Nothing in this section may be construed to require an influenza immunization as a condition of receiving any type of service or as a condition of discharge.

CHAPTER 188

(Com. Sub. for H. B. 2620 - By Delegates Frich, Ellington, Shott, Howell, Householder, Storch, Hanshaw, Kessinger, Hollen, Sobonya and Mr. Speaker (Mr. Armstead)

[Passed April 8, 2017; in effect ninety days from passage.] [Approved by the Governor on April 26, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5T-1, §16-5T-2, §16-5T-3, §16-5T-4 and §16-5T-5, all relating to the West Virginia Drug Control Policy Act; creating the Office of Drug Control Policy within the Department of Health and Human Resources; requiring the office to develop a state drug control policy and a strategic plan; requiring the office to coordinate with other entities; setting forth duties of the office; requiring the coordination of funding; requiring data sharing; requiring the office to develop a plan to add treatment beds; required reporting; requiring the office to create a central repository of drug overdose information in West Virginia; establishing the program and purpose; establishing the reporting system
requirements; establishing responsibility of entities to report information; setting forth information required to be reported and the agencies which are affected; providing for data collection and reporting; and providing for rule-making authority and emergency rule-making authority.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-5T-1, §16-5T-2, §16-5T-3, §16-5T-4 and §16-5T-5, all to read as follows:

ARTICLE 5T. OFFICE OF DRUG CONTROL POLICY.

§16-5T-1. Short title.

This article shall be referred to as the West Virginia Drug Control Policy Act.

§16-5T-2. Office of Drug Control Policy.

(a) The Office of Drug Control Policy is created within the Department of Health and Human Resources under the direction of the Secretary and supervision of the State Health Officer.

(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 ten percent by July 1, 2018;

(2) Monitor, coordinate and oversee the collection of data and issues related to drug, alcohol and tobacco access,
(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 antidrug 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 section three of this article, 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) 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, and the Board of Pharmacy. The data and information may include: 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-3. Reporting system requirements; implementation; central repository requirement.

(a) The Office of Drug Control Policy shall implement a program in which a central repository is established and maintained that shall contain information required by this article. In implementing this program, the office shall consult with all affected entities, including law-enforcement agencies,
health care providers, emergency response providers, pharmacies and medical examiners.

(b) The program authorized by subsection (a) of this section shall be designed to minimize inconvenience to all entities maintaining possession of the relevant information while effectuating the collection and storage of the required information. The Office of Drug Control Policy shall allow reporting of the required information by electronic data transfer where feasible, and where not feasible, on reporting forms promulgated by the Office of Drug Control Policy. The information required to be submitted by the provisions of this article shall be required to be filed no more frequently than on a quarterly basis.

§16-5T-4. Entities required to report; required information.

(a) To fulfill the purposes of this article, the following information shall be reported to the Office of Drug Control Policy:

(1) An emergency medical or law-enforcement response to a suspected or reported overdose, or a response in which an overdose is identified by the responders;

(2) Medical treatment for an overdose;

(3) The dispensation or provision of an opioid antagonist; and

(4) Death attributed to overdose or “drug poisoning”.

(b) The following entities shall be required to report information contained in subsection (a) of this section:

(1) Pharmacies operating in the state;

(2) Health care providers;

(3) Medical examiners;
§16-5T-5. Promulgation of rules.

The Secretary of the Department of Health and Human Resources may propose rules for promulgation in accordance with article three, chapter twenty-nine-a of this code to implement the provisions of this section. The Legislature finds that for the purposes of section fifteen, article three, chapter twenty-nine-a of this code, an emergency exists requiring the promulgation of emergency rules to preserve the public peace, health, safety or welfare and to prevent substantial harm to the public interest.

AN ACT to amend and reenact §16-5Y-2 of the Code of West Virginia, 1931, as amended, relating to clarifying the definition of “telehealth” for purposes of medication-assisted treatment programs.

Be it enacted by the Legislature of West Virginia:

That §16-5Y-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5Y. MEDICATION-ASSISTED TREATMENT PROGRAM LICENSING ACT.

(a) “Addiction” means a primary, chronic disease of brain reward, motivation, memory and related circuitry. Dysfunction in these circuits leads to characteristic biological, psychological, social and spiritual manifestations, which is reflected in an individual pathologically pursuing reward or relief by substance use, or both, and other behaviors. Addiction is characterized by inability to consistently abstain; impairment in behavioral control; craving; diminished recognition of significant problems with one’s behaviors; interpersonal problems with one’s behaviors and interpersonal relationships; a dysfunctional emotional response; and as addiction is currently defined by the American Society of Addiction Medicine.

(b) “Administrator” means an individual designated by the governing body to be responsible for the day-to-day operation of the opioid treatment programs.

c) “Advanced alcohol and drug abuse counselor” means an alcohol and drug abuse counselor who is certified by the West Virginia Certification Board for Addiction and Prevention Professionals who demonstrates a high degree of competence in the addiction counseling field.

(d) “Alcohol and drug abuse counselor” means a counselor certified by the West Virginia Certification Board for Addiction and Prevention Professionals for specialized work with patients who have substance use problems.

e) “Biopsychosocial” means of, relating to or concerned with, biological, psychological and social aspects in contrast to the strictly biomedical aspects of disease.

(f) “Center for Substance Abuse Treatment” means the center under the Substance Abuse and Mental Health Services Administration that promotes community-based substance abuse treatment and recovery services for individuals and families in the community and provides national leadership to improve access, reduce barriers and
promote high quality, effective treatment and recovery services.

(g) “Controlled Substances Monitoring Program database” means the database maintained by the West Virginia Board of Pharmacy pursuant to section three, article nine, chapter sixty-a of this code that monitors and tracks certain prescriptions written or dispensed by dispensers and prescribers in West Virginia.

(h) “Director” means the Director of the Office of Health Facility Licensure and Certification.

(i) “Dispense” means the preparation and delivery of a medication-assisted treatment medication in an appropriately labeled and suitable container to a patient by a medication-assisted treatment program or pharmacist.

(j) “Governing body” means the person or persons identified as being legally responsible for the operation of the opioid treatment program. A governing body may be a board, a single entity or owner, or a partnership. The governing body must comply with the requirements prescribed in rules promulgated pursuant to this article.

(k) “Medical director” means a physician licensed within the State of West Virginia who assumes responsibility for administering all medical services performed by the medication-assisted treatment program, either by performing them directly or by delegating specific responsibility to authorized program physicians and health care professionals functioning under the medical director’s direct supervision and functioning within their scope of practice.

(l) “Medication-assisted treatment” means the use of medications and drug screens, in combination with counseling and behavioral therapies, to provide a holistic approach to the treatment of substance use disorders.
(m) “Medication-assisted treatment program” means all publicly and privately owned opioid treatment programs and office based medication-assisted treatment programs, which prescribe medication-assisted treatment medications and treat substance use disorders, as those terms are defined in this article.

(n) “Medication-assisted treatment medication” means any medication that is approved by the United States Food and Drug Administration under Section 505 of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. § 355, for use in the treatment of substance use disorders that is an opioid agonist and is listed on the schedule of controlled substances in article two, chapter sixty-a of this code.

(o) “Office based medication-assisted treatment” means all publicly or privately owned medication-assisted treatment programs in clinics, facilities, offices or programs that treat individuals with substance use disorders through the prescription, administration or dispensing of a medication-assisted treatment medication in the form of a partial opioid agonist or other medication-assisted medication approved for use in office-based, medication-assisted treatment setting.

(p) “Opioid agonist” means substances that bind to and activate the opiate receptors resulting in analgesia and pain regulation, respiratory depression and a wide variety of behavioral changes. As used in this article, the term “opioid agonist” does not include partial agonist medications used as an alternative to opioid agonists in the treatment of opioid addiction.

(q) “Opioid treatment program” means all publicly or privately owned medication-assisted treatment programs in clinics, facilities, offices or programs that treat individuals with substance use disorders through on-site administration or dispensing of a medication-assisted treatment medication in the form of an opioid agonist or partial opioid agonist.
“Owner” means any person, partnership, association or corporation listed as the owner of a medication-assisted treatment program on the licensing or registration forms required by this article.

“Partial opioid agonist” means a Federal Drug Administration approved medication that is used as an alternative to opioid agonists for the treatment of substance use disorders and that binds to and activates opiate receptors, but not to the same degree as full agonists.

“Physician” means an individual licensed in this state to practice allopathic medicine or surgery by the West Virginia Board of Medicine or osteopathic medicine or surgery by the West Virginia Board of Osteopathic Medicine and that meets the requirements of this article.

“Prescriber” means a person authorized in this state, working within their scope of practice, to give direction, either orally or in writing, for the preparation and administration of a remedy to be used in the treatment of substance use disorders.

“Program sponsor” means the person named in the application for the certification and licensure of an opioid treatment program who is responsible for the administrative operation of the opioid treatment program and who assumes responsibility for all of its employees, including any practitioners, agents or other persons providing medical, rehabilitative or counseling services at the program.

“Secretary” means the Secretary of the West Virginia Department of Health and Human Resources or his or her designee.

“State opioid treatment authority” means the agency or individual designated by the Governor to exercise the responsibility and authority of the state for governing the treatment of substance use disorders, including, but not
limited to, the treatment of opiate addiction with opioid drugs.

(y) “State oversight agency” means the agency or office of state government identified by the secretary to provide regulatory oversight of medication-assisted treatment programs on behalf of the State of West Virginia.

(z) “Substance” means the following:

(1) Alcohol;

(2) Controlled substances defined by sections two hundred four, two hundred six, two hundred eight, and two hundred ten, article two, chapter sixty-a of this code; or

(3) Any chemical, gas, drug or medication consumed which causes clinically and functionally significant impairment, such as health problems, disability and failure to meet major responsibilities at work, school or home.

(aa) “Substance Abuse and Mental Health Services Administration” means the agency under the United States Department of Health and Human Services responsible for the accreditation and certification of medication-assisted treatment programs and that provides leadership, resources, programs, policies, information, data, contracts and grants for the purpose of reducing the impact of substance abuse and mental or behavioral illness.

(bb) “Substance use disorder” means patterns of symptoms resulting from use of a substance that the individual continues to take, despite experiencing problems as a result; or as defined in the most recent edition of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders.

(cc) “Telehealth” means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment education, care management and self-management of a
169 patient’s health care while the patient is at the originating site
170 and the health care provider is at a distant site.

171 (dd) “Variance” means written permission granted by the
172 secretary to a medication-assisted treatment program that a
173 requirement of this article or rules promulgated pursuant to this
174 article may be accomplished in a manner different from the
175 manner set forth in this article or associated rules.

176 (ee) “Waiver” means a formal, time-limited agreement
177 between the designated oversight agency and the medication-
178 assisted treatment program that suspends a rule, policy or
179 standard for a specific situation so long as the health and safety
180 of patients is better served in the situation by suspension of the
181 rule, policy or standard than by enforcement.

CHAPTER 190

(Com. Sub. for S. B. 360 - By Senators Takubo,
Stollings, Maroney, Plymale and Miller)

[Passed April 7, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 24, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended,
by adding thereto a new article, designated §16-5Z-1, §16-5Z-
2, §16-5Z-3, §16-5Z-4 and §16-5Z-5, all relating to creating
the Legislative Coalition on Diabetes Management; setting
forth findings and purpose; providing for administrative
functions of the coalition to be performed by legislative staff;
setting forth membership of the coalition; providing for
appointments to be made by the President of the Senate and
the Speaker of the House of Delegates; setting forth powers
and duties of the coalition; setting forth required reporting;
setting forth reporting data elements; requiring state entities to
cooperate with the coalition in its duties; and providing a sunset date.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-5Z-1, §16-5Z-2, §16-5Z-3, §16-5Z-4 and §16-5Z-5, all to read as follows:

ARTICLE 5Z. COALITION FOR DIABETES MANAGEMENT.

§16-5Z-1. Creation of the Coalition for Diabetes Management.

There is created the Coalition for Diabetes Management. The administrative functions of the coalition shall be the responsibility of staff assigned to the Joint Committee on Health to be in the best interest of the state and its citizens.


The Coalition for Diabetes Management shall consist of the following members:

(1) The Dean of the School of Public Health at West Virginia University, or his or her designee, who shall serve as chair of the coalition.

(2) Four physicians licensed to practice in this state pursuant to article three or fourteen, chapter thirty of this code who shall be appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health. These physicians shall be board-certified endocrinologists.

(3) A primary care physician licensed to practice in this state pursuant to article three or fourteen, chapter thirty of this code who shall be appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health.
(4) A pediatric physician licensed to practice in this state pursuant to article three or fourteen, chapter thirty of this code who shall be appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health.

(5) A pharmacist licensed to practice in this state pursuant to article five, chapter thirty of this code. Preference shall be given to a pharmacist who is certified as a diabetes educator.

(6) A dietitian licensed or registered to practice in this state pursuant to article thirty-five, chapter thirty of this code who is also a diabetic educator who shall be appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health.

(7) There shall be equal distribution of the membership of the coalition among the congressional districts of this state and each congressional district shall be represented in the membership of the coalition.

(8) The cochairs of the Joint Committee on Health serve as nonvoting members, ex-officio.

§16-5Z-3. Powers and duties of the coalition.

(a) The Coalition for Diabetes Management shall:

(1) Meet at least quarterly or at the call of the chairman. A quorum is a simple majority of the coalition;

(2) Keep accurate records of the actions of the coalition; and

(3) Make recommendations to the Legislature as required by this article.

(b) At a minimum, the coalition shall:
(1) Provide guidance to the Legislature on potential statutory solutions relative to regulation of diabetes;

(2) Consult with a quality improvement organization;

(3) Establish workgroups and clinical advisory committees as the coalition deems necessary to address pertinent issues related to diabetes management and to provide consistency in the development of further regulation;

(4) Consult with entities and persons with a particular expertise as the coalition deems necessary in the fulfillment of their duties. This can include public and private sector partnerships; and

(5) Offer any additional guidance to the Legislature which the coalition sees is within its scope which would further enhance the provider patient relationship in the effective treatment and management of diabetes.

(c) The coalition shall report its findings to the Joint Committee on Health by December 31, 2017, and annually after that until the coalition terminates pursuant to the provisions of this article. The report shall include, at a minimum, the following:

(1) Conclusions and recommendations to promote a better means for management of diabetes;

(2) Recommendations for statutory and regulatory modifications;

(3) Identification of any action which may be taken by the Legislature to better foster awareness of the plight of diabetes in this state;

(4) A means to raise diabetes awareness; and

(5) Any other ancillary issues relative to diabetes management.
§16-5Z-4. Cooperation with the coalition.

(a) The Department of Health and Human Resources, the West Virginia Insurance Commission, the Health Care Authority, the Public Employees Insurance Agency and any other entity of state government shall cooperate with the coalition in the exchange of data, information and expertise if so requested by the coalition, including, but not limited to:

1. Providing the entity’s plans to improve diabetes care and control complications associated with diabetes in West Virginia;
2. The financial impact of diabetes on the State of West Virginia;
3. The number of lives impacted with diabetes;
4. The number of lives with diabetes and family members impacted by prevention and diabetes control programs implemented by the entity;
5. An assessment of the benefits of implemented programs and activities aimed at controlling diabetes and preventing the disease;
6. The development or revision of detailed action plans to reduce the impact of diabetes, pre-diabetes and related diabetes complications, including a budget identifying needs and costs; and
7. Resources required to implement the plan.

(b) No entity of state government is required to produce or prepare any plan or document at the request of the coalition which they do not currently maintain or which is not readily available from their existing resources.

§16-5Z-5. Sunset.
The coalition terminates on December 31, 2020, unless continued by act of the Legislature.

CHAPTER 191
(S. B. 578 - By Senators Trump and Blair)

[Passed April 7, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 25, 2017.]

AN ACT to amend and reenact §16-29-1 and §16-29-2 of the Code of West Virginia, 1931, as amended, all relating generally to copies of health care records; providing that health care records must be furnished no more than thirty days from the receipt of the request from a patient, his or her representative, authorized agent or authorized representative; stating that electronic copies of health records may be provided in a downloadable format through a secure web portal; permitting a personal representative to act in lieu of a patient in certain circumstances; clarifying that fees shall apply to subpoenaed records; establishing fees for providing copies of health care records; and providing that the per page fee shall be adjusted annually according to the consumer price index.

Be it enacted by the Legislature of West Virginia:

That §16-29-1 and §16-29-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 29. HEALTH CARE RECORDS.

§16-29-1. Copies of health care records to be furnished to patients.
(a) Any licensed, certified or registered health care
provider so licensed, certified or registered under the laws
of this state shall, upon the written request of a patient, his
or her personal representative, as defined by the Health
Insurance Portability and Accountability Act of 1996
(HIPAA), as amended, and any rules promulgated pursuant
to the act, and his or her authorized agent or authorized
representative, within no more than thirty days from the
receipt of the request, furnish a copy, in the form of a paper
copy or, if requested and if the provider routinely stores
records electronically and has the ability to so provide, a
copy in an electronic format including, but not limited to, a
downloadable format through a secure web portal, a copy
saved upon a computer disc, an electronically mailed copy
or a copy saved upon a portable memory device of all or a
portion of the patient’s record to the patient, his or her
personal representative, or authorized agent or authorized
representative subject to the following exceptions:

(1) In the case of a patient receiving treatment for
psychiatric or psychological problems, a summary of the
record shall be made available to the patient, personal
representative, or his or her authorized agent or authorized
representative following termination of the treatment
program.

(2) The furnishing of a copy, as requested, of the reports
of x-ray examinations, electrocardiograms and other
diagnostic procedures shall be deemed to comply with the
provisions of this article.

(b) Nothing in this article shall be construed to require a
health care provider responsible for diagnosis, treatment or
administering health care services in the case of minors for
birth control, prenatal care, drug rehabilitation or related
services or venereal disease according to any provision of
this code, to release patient records of such diagnosis,
treatment or provision of health care as aforesaid to a parent
or guardian, without prior written consent therefor from the
patient, nor shall anything in this article be construed to
apply to persons regulated under the provisions of chapter eighteen of this code or the rules and regulations established thereunder.

(c) This article does not apply to records subpoenaed or otherwise requested through court process, except for the fee provisions in section two of this article, which do apply to subpoenaed records.

(d) The provisions of this article may be enforced by a patient, personal representative, authorized agent or authorized representative and any health care provider found to be in violation of this article shall pay any attorney fees and costs, including court costs incurred in the course of such enforcement.

(e) Nothing in this article shall be construed to apply to health care records maintained by health care providers governed by the AIDS-related Medical Testing and Records Confidentiality Act under the provisions of article three-c of this chapter.

§16-29-2. Reasonable expenses to be reimbursed.

(a) A provider may charge a patient or the patient’s personal representative a fee consistent with HIPAA, as amended, and any rules promulgated pursuant to HIPAA, plus any applicable taxes.

(b) A person other than a patient or patient’s personal representative requesting records from a health care provider shall submit the request and HIPAA compliant authorization in writing and pay a fee at the time of delivery. Notwithstanding any other section of the code or rule, the fees shall not exceed: (1) A search and handling fee of $20; (2) a per page fee of 40 cents for paper copies; and (3) postage, if the person requested that the records be mailed, plus any applicable taxes.

(c) If the requested record is stored by the health care provider in an electronic form, unless the person requesting
the record specifically requests a paper copy, the records will be delivered in electronic or digital form and the per page fee for providing an electronic copy shall not exceed 20 cents per page but shall in no event exceed $150 inclusive of all fees, including a search and handling fee, except for applicable taxes.

(d) Any person requesting a record be certified by affidavit pursuant to section four-e, article five, chapter fifty-seven of this code shall pay a fee of $10 for such certification.

(e) If a person requests or agrees to an explanation or summary of the records, the provider may charge a reasonable cost-based fee for the labor cost if preparing the explanation or the summary; for the supplies for creating the explanation or summary; and for the cost of postage, if the person requested that the records be mailed, plus any applicable taxes. If the records are stored with a third party or a third party responds to the request for records in paper or electronic media, the provider may charge additionally for the actual charges incurred from the third party.

(f) The per page fee for copying under this section shall be adjusted to reflect the consumer price index for medical care services such that the base amount shall be increased or decreased by the proportional consumer price index as published every October 1 starting October 1, 2017.

(g) Notwithstanding the provisions of subsection (a) of this section, a provider shall not impose a charge on an indigent person or his or her authorized representative if the medical records are necessary for the purpose of supporting a claim or appeal under any provisions of the Social Security Act, 42 U. S. C. §301, et seq.

For purposes of this section, a person is considered indigent if he or she:
(1) Is represented by an organization or affiliated pro
bono program that provides legal assistance to indigents; or

(2) Verifies on a medical records request and release
form that the records are requested for purposes of
supporting a Social Security claim or appeal and submits
with the release form reasonable proof that the person is
financially unable to pay full copying charges by reason of
unemployment, disability, income below the federal
poverty level or receipt of state or federal income assistance.

(h) Any person requesting free copies of written medical
records pursuant to the provisions of subsection (g) of this
section is limited to one set of copies per provider. Any
additional requests for the same records from the same
provider shall be subject to the fee provisions of subsections
(a), (b) and (c).

CHAPTER 192

(Com. Sub. for H. B. 2520 - By Delegates Summers,
Rohrbach, Criss, Atkinson, Higginbotham, Byrd,
Lovejoy, Fleischauer and Rowan)

[Passed April 8, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 26, 2017.]

AN ACT to amend and reenact §16-45-3 and §16-45-5 of the
Code of West Virginia, 1931, as amended, relating to
prohibiting the use of a tanning device by a person under the
age of eighteen.

Be it enacted by the Legislature of West Virginia:

That §16-45-3 and §16-45-5 of the Code of West Virginia,
1931, as amended, be amended and reenacted to read as follows:
ARTICLE 45. TANNING FACILITIES.

§16-45-3. Operation standards.

(a) A tanning facility shall provide to any patron who wishes to use a tanning device located within its tanning facility a disclosure and consent form relating to use of a tanning device that contains the current United States Food and Drug Administration warning as follows: “Danger. Ultraviolet Radiation. Follow instructions. Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. REPEATED EXPOSURE MAY CAUSE PREMATURE AGING OF THE SKIN AND SKIN CANCER. WEAR PROTECTIVE EYEWEAR; FAILURE TO DO SO MAY RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult physician before using tanning device if you are using medications or have a history of skin problems or believe yourself especially sensitive to sunlight. If you do not tan in the sun, you are unlikely to tan from use of this product.”

The disclosure and consent form must have a place for the patron’s signature and the date. A signed and dated copy of the disclosure and consent form shall be maintained by the tanning facility and remains valid for one year from the date it was signed.

(b) All patrons are required to present proof of age prior to use of a tanning device. Proof of age shall be satisfied with a driver’s license or other government-issued identification containing the date of birth and a photograph of the individual. Persons under the age of eighteen may not be permitted to use a tanning device.

§16-45-5. Violations and penalties.

(a) Any owner of a tanning facility who violates the requirements of this article is guilty of a misdemeanor and,
upon conviction thereof, for a first offense, shall be fined $100.

(b) For a second offense, the owner is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $250 nor more than $500.

(c) For a third offense or subsequent offense, the owner is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $1,000.

CHAPTER 193

(Com. Sub. for S. B. 339 - By Senators Takubo, Cline and Maroney)

[Passed April 7, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 24, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-52-1, §16-52-2, §16-52-3, §16-52-4 and §16-52-5, all relating to creating a legislative coalition on chronic pain management; setting forth findings; setting forth a purpose; providing for administrative functions of the coalition; setting forth membership of the coalition; providing for appointments to be made by the President of the Senate; providing for appointments to be made by the Speaker of the House of Delegates; setting forth powers of the coalition; setting forth duties of the coalition; setting forth required reporting; setting forth reporting data elements; and providing a sunset date.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-52-1,
§16-52-1. Findings and purpose.

The Legislature finds that treatment for pain is an important element in health care. Unlike diseases such as hypertension and diabetes, pain is a subjective experience. There is no objective measure of pain intensity. Consequently, the clinical and medical judgment of a prescriber is more essential in rendering effective treatment of a person’s level of pain.

The treatment of chronic pain has a significant impact on the individual and society as a whole. Most chronic pain problems start with an acute nociceptive pain episode. Effective early care is paramount in managing chronic pain. To that end, prescribers should have the flexibility to effectively treat patients who present with chronic pain. However, there must be a balance between proper treatment for chronic pain and the abuse of the opioids found most effective in its treatment.

The abuse of pain medication in this state continues to be a nearly insurmountable plague. Substance abuse continues to contribute to unnecessary deaths, causes countless societal breakdowns and causes a strain on our state and its citizens both financially and emotionally. In an effort to address this crisis the state has created a regulatory framework with the intended goal of curbing overprescribing and overuse of prescription pain medication. This regulation, however, has resulted in unforeseen outcomes often causing patients seeking pain treatment to suffer from a lack of treatment options.

Accordingly, the Legislature finds that a comprehensive review of the regulatory structure in place to provide oversight to prescribers whose practice has a significant
focus on pain management needs to be undertaken. In order
to gain the necessary insight into effective treatment for
chronic pain and to maintain the state’s interest in protecting
its citizens from the proliferation of prescription pain
medication, the Legislature hereby creates the Coalition for
Responsible Chronic Pain Management.

§16-52-2. Creation of the Coalition for Responsible Chronic
Pain Management.

There is created the Coalition for Responsible Chronic
Pain Management. The administrative functions of the
coalition shall be the responsibility of staff assigned to the
Joint Committee on Health to be in the best interest of the
state and its citizens.

§16-52-3. Members of the Coalition for Responsible Chronic
Pain Management.

The Coalition for Responsible Chronic Pain
Management shall consist of the following members:

1. (1) The Dean of the School of Public Health at West
Virginia University, or his or her designee, who shall serve
as chair of the coalition.

2. (2) A physician who is a board-certified pain specialist.

3. (3) Three physicians licensed to practice in this state
pursuant to article three or article fourteen, chapter thirty of
this code who shall be appointed by the President of the
Senate and the Speaker of the House of Delegates in
consultation with the cochairs of the Joint Committee on
Health. Two of these physicians’ practices shall have been
classified as a pain clinic pursuant to the regulations
promulgated under article five-h of this chapter. The third
physician shall be a primary care physician who is not
classified as a pain clinic.

4. (4) A pharmacist licensed to practice in this state
pursuant to article five, chapter thirty of this code who shall
be appointed by the President of the Senate and the Speaker
of the House of Delegates in consultation with the cochairs
of the Joint Committee on Health.

(5) A consumer of health care services directly impacted
by the regulation of pain clinics who is appointed by the
President of the Senate and the Speaker of the House of
Delegates in consultation with the cochairs of the Joint
Committee on Health.

(6) A chiropractor licensed pursuant to the provisions
of article sixteen, chapter thirty of this code who is
appointed by the President of the Senate and the Speaker of
the House of Delegates in consultation with the cochairs of
the Joint Committee on Health.

(7) A Physical Therapist, licensed under chapter thirty
of this code, experienced in the area management of chronic
pain by physical, behavioral and other nonpharmacological
means who is appointed by the President of the Senate and
the Speaker of the House of Delegates in consultation with
the cochairs of the Joint Committee on Health.

(8) Membership on the coalition shall be equally
distributed among the congressional districts of this state
and each congressional district shall be represented in the
membership of the coalition.

(9) The cochairs of the Joint Committee on Health shall
serve as nonvoting members, ex-officio.

§16-52-4. Powers and duties of the Coalition for Responsible
Chronic Pain Management.

(a) The Coalition for Responsible Chronic Pain
Management shall:

(1) Meet at least quarterly, or at the call of the chairman.
A quorum shall be a simple majority of the coalition.

(2) Keep accurate records of the actions of the coalition.
(3) Make recommendations to the Legislature as required by this article.

(b) At a minimum, the coalition shall:

(1) Undertake a review of chronic pain regulations contained in article five-h of this chapter and any legislative rules promulgated pursuant to said article to ascertain if a less cumbersome, but equally or more effective manner exists to provide necessary regulation of prescriber practices characterized as pain clinics.

(2) Review the statutory provisions of the Controlled Substance Monitoring Database provided for in article nine, chapter sixty-a of this code. The purpose of this review is to ascertain if there is a more effective manner for prescribers to access the database which would provide sufficient regulation over the prescription of chronic pain medication while still allowing access to patients with established chronic pain conditions.

(3) Provide guidance to the Legislature on potential statutory solutions relative to regulation of chronic pain medications.

(4) Consult with a quality improvement organization.

(5) Establish workgroups and clinical advisory committees as the coalition deems necessary to address pertinent issues related to chronic pain management and to provide consistency in the development of further regulation.

(6) Consult with entities and persons with a particular expertise as the coalition deems necessary in the fulfillment of their duties. This can include public and private sector partnerships.

(7) Offer any additional guidance to the Legislature which the coalition sees is within its scope which would
further enhance the provider patient relationship in the
effective treatment and management of chronic pain.

(8) Make recommendations regarding regulations of
wholesalers of controlled substances or terminal distributors
of dangerous drugs.

(9) Provide insight into whether “take back” programs
or limitations on prescriber furnished controlled substances
would be effective in this state.

(10) The coalition shall report its findings to the Joint
Committee on Health by December 31, 2017, and annually
thereafter until the coalition terminates pursuant to the
provisions of this article. The report shall include, at a
minimum, the following:

(A) Conclusions and recommendations to promote a
better means for regulation of chronic pain clinics while
protecting the rights and needs of chronic pain patients.

(B) Recommendations for statutory and regulatory
modifications.

(C) Identification of any action which may be taken by
the Legislature to better foster a balance between the clinical
judgment of prescribers and the needs of chronic pain
patients and the state interest in maintaining an effective
regulatory structure.

(D) Any other ancillary issues relative to chronic pain
management.

§16-52-5. Sunset.

The coalition shall terminate on December 31, 2020,
unless continued by act of the Legislature.
CHAPTER 194


[Passed April 8, 2017; in effect from passage.]
[Approved by the Governor on April 25, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-53-1, §16-53-2 and §16-53-3, all relating to ensuring additional beds for purposes of providing substance abuse treatment; requiring these beds are made available in locations throughout the state; providing duties of the Secretary of the Department of Health and Human Resources; providing for requirements of facilities accepting funds; requiring facilities be appropriately licensed; creating the Ryan Brown Addiction Prevention and Recovery Fund; providing for administration of fund by the Secretary of the Department of Health and Human Resources; providing what moneys the fund shall consist of; directing the transfer of money recovered on behalf of the state arising out of the settlement of a certain civil action to the fund; and providing for rulemaking.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-53-1, §16-53-2 and §16-53-3, all to read as follows:

ARTICLE 53. ESTABLISHING ADDITIONAL SUBSTANCE ABUSE TREATMENT FACILITIES.

§16-53-1. Establishment of substance abuse treatment facilities.

(a) The Secretary of the Department of Health and Human Resources shall ensure that beds for purposes of providing substance abuse treatment services in existing or newly constructed facilities are made available in locations throughout the state which the Bureau for Behavioral Health
and Health Facilities determines to be the highest priority for serving the needs of the citizens of the state.

(b) The secretary shall identify and allocate the beds to privately owned facilities to provide substance abuse treatment services.

(c) These facilities shall:

1. Give preference to West Virginia residents;
2. Accept payment from private pay patients, third party payors or patients covered by Medicaid;
3. Offer long term treatment, based upon need, of up to one year; and
4. Work closely with the Adult Drug Court Program, provided for in article fifteen, chapter sixty-two of this code.

(d) Any facility subject to the provisions of this article must be licensed by this state to provide addiction and substance abuse services.


The Ryan Brown Addiction Prevention and Recovery Fund is hereby created in the state treasury as a special revenue account. The fund shall be administered by the Secretary of the Department of Health and Human Resources and shall consist of all moneys made available for the purposes of this article from any source, including, but not limited to, all grants, bequests or transfers from any source, any moneys that may be appropriated and designated for those purposes by the Legislature and all interest or other return earned from investment of the fund, gifts, and all other sums available for deposit to the special revenue account from any source, public or private. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of
the provisions set forth in article two, chapter eleven-b of this code. Upon the effective date of this section, the attorney general and any public official with custody or control of the proceeds recovered for the state pursuant to settlement agreement dated January 9, 2017, in that certain civil action then pending in Boone County, designated Civil Action No. 12-C-141, shall forthwith transfer, or cause the transfer, of those proceeds into the Ryan Brown Addiction Prevention and Recovery Fund in the manner directed by the state treasurer pursuant to articles one and two, chapter twelve of this code and all other applicable law.


The Secretary of the West Virginia Department of Health and Human Resources shall promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to effectuate the provisions of this article.

CHAPTER 195

(Com. Sub. for S. B. 386 - By Senators Ojeda, Beach, Facemire, Miller, Palumbo, Plymale, Romano, Rucker, Stollings, Swope, Woelfel and Boso)

[Passed April 6, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 19, 2017.]
12, §16A-6-13, §16A-7-1, §16A-7-2, §16A-7-3, §16A-7-4, §16A-7-5, §16A-7-6, §16A-8-1, §16A-8-2, §16A-8-3, §16A-9-1, §16A-9-2, §16A-10-1, §16A-10-2, §16A-10-3, §16A-10-4, §16A-10-5, §16A-10-6, §16A-11-1, §16A-11-2, §16A-12-1, §16A-12-2, §16A-12-3, §16A-12-4, §16A-12-5, §16A-12-6, §16A-12-7, §16A-12-8, §16A-12-9, §16A-13-1, §16A-13-2, §16A-13-3, §16A-13-4, §16A-13-5, §16A-13-6, §16A-13-7, §16A-13-8, §16A-14-1, §16A-14-2, §16A-14-3, §16A-15-1, §16A-15-2, §16A-15-3, §16A-15-4, §16A-15-5, §16A-15-6, §16A-15-7, §16A-15-8, §16A-15-9 and §16A-16-1, all relating to medical cannabis generally; authorizing, under limited conditions, the use, possession, growing, processing and dispensing of cannabis for serious medical conditions; creating the West Virginia Medical Cannabis Act; defining terms; establishing medical cannabis program; placing the medical cannabis program within the Department of Health and Human Resources and under the direction of the Bureau for Public Health; listing duties of the Bureau for Public Health in the implementation and administration of the medical cannabis program; establishing lawful use and forms of medical cannabis; ensuring patient confidentiality; designating certain records as public records; authorizing reciprocity agreements to allow terminally ill cancer patients to obtain medical cannabis in other states; requiring registration of physicians who may issue certificates to patients allowing them to obtain medical cannabis; establishing requirements for certified physicians; placing limits on physician practices related to medical cannabis; authorizing issuance of certificates to medical cannabis patients and establishing conditions required for issuance of certificates; establishing limits on duration of certification and on amounts of medical cannabis which may be dispensed to a patient; authorizing issuance of identification cards to patients and caregivers and setting forth content of identification cards; establishing fees for patients, caregivers, physicians, growers, processors and dispensers; authorizing patients to have caregivers and establishing requirements for caregivers; requiring the Bureau for Public Health to verify information supplied by patients and caregivers; authorizing minors to
obtain medical cannabis through caregivers and establishing qualifications for minors’ caregivers; prohibiting certain actions and behaviors by patients while they are using medical cannabis; authorizing and defining medical cannabis organizations; establishing permitting processes for growers, processors and dispensers of medical cannabis; requiring criminal background checks for caregivers, growers, processors and dispensers of medical cannabis; establishing terms for permits; authorizing renewal of permits and establishing requirements for renewal; authorizing the bureau to suspend or revoke permits of medical cannabis growers, processors and dispensers for violations; establishing limits on who may hold permits; establishing limits on who may hold positions or employment with growers, processors and dispensers; setting limits on number of permits that may be issued; requiring medical cannabis inventory tracking systems; requiring reporting by medical cannabis organizations; requiring rules for storage and transportation of medical cannabis; requiring medical cannabis organizations to contract with laboratories for testing of medical cannabis; requiring the bureau and the Department of Revenue to monitor the prices of medical cannabis; authorizing counties to prohibit medical cannabis organizations from being located within their county; establishing requirements for dispensaries; providing for imposition and collection of a tax; establishing the Medical Cannabis Program Fund; allocating monies placed in the fund; establishing the Office of Medical Cannabis within Bureau for Public Health; requiring reporting by medical cannabis organizations; authorizing the bureau to notify law enforcement of violations of the act; authorizing rulemaking; establishing the Medical Cannabis Advisory Board; establishing requirements for advisory board membership; establishing terms for advisory board members; establishing duties of the advisory board; establishing criminal offenses related to medical cannabis and setting penalties therefor; establishing confidentiality requirements for advisory board members and employees; authorizing civil penalties and setting amounts thereof for violations of the Medical Cannabis Act; authorizing research in medical
cannabis by the bureau; authorizing Medical Cannabis Advisory Board to issue recommendations as to forms of cannabis use and other issues; authorizing the bureau to implement recommendations of the advisory board; requiring publication of bureau actions and decisions in the State Register; authorizing academic research regarding medical cannabis and its uses; establishing requirements to be an academic research institution; exempting medical cannabis manufacture, distribution, possession and processing in compliance with the act from the provisions of the Uniform Controlled Substances Act; limiting persons who may hold an interest in medical cannabis organizations or employment thereby; clarifying that insurance companies are not required to provide medical cannabis coverage; limiting the arrest, prosecution, imposition of penalty, denial of any right or privilege for lawful use, manufacture, sale or dispensing of medical cannabis; requiring the Department of Education to promulgate rules regarding possession and use of medical cannabis in schools; requiring the bureau to promulgate rules regarding possession and use of medical cannabis in daycare centers; authorizing zoning restrictions on medical cannabis organizations; requiring notice to the bureau of zoning restrictions; requiring publication in the State Register of permits and authorizations issued; requiring issuance of permits and authorizations only after publication of same in the State Register; and establishing effective dates.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new chapter, designated §16A-1-1, §16A-2-1, §16A-3-1, §16A-3-2, §16A-3-3, §16A-3-4, §16A-3-5, §16A-4-1, §16A-4-2, §16A-4-3, §16A-4-4, §16A-4-5, §16A-5-1, §16A-5-2, §16A-5-3, §16A-5-4, §16A-5-5, §16A-5-6, §16A-5-7, §16A-5-8, §16A-5-9, §16A-5-10, §16A-6-1, §16A-6-2, §16A-6-3, §16A-6-4, §16A-6-5, §16A-6-6, §16A-6-7, §16A-6-8, §16A-6-9, §16A-6-10, §16A-6-11, §16A-6-12, §16A-6-13, §16A-7-1, §16A-7-2, §16A-7-3, §16A-7-4, §16A-7-5, §16A-7-6, §16A-8-1, §16A-8-2, §16A-8-3, §16A-9-1, §16A-9-2, §16A-10-1, §16A-10-2, §16A-10-3, §16A-10-4, §16A-10-5, §16A-10-6, §16A-11-1,
CHAPTER 16A. MEDICAL CANNABIS ACT.

ARTICLE 1. SHORT TITLE.

§16A-1-1. Short title.

This chapter is in honor of James William “Bill” Flanigan and Lucile Gillespie and shall be known and cited as the West Virginia Medical Cannabis Act.

ARTICLE 2. DEFINITIONS.

§16A-2-1. Definitions.

(a) The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) “Act” means the West Virginia Medical Cannabis Act and the provisions contained in chapter sixty-a of this code.

(2) “Advisory board” means the advisory board established under article eleven of this chapter.

(3) “Bureau” mean the Bureau for Public Health within the West Virginia Department of Health and Human Resources.

(4) “Caregiver” means the individual designated by a patient or, if the patient is under eighteen years of age, an individual under article five, to deliver medical cannabis.
(5) “Certified medical use” means the acquisition, possession, use or transportation of medical cannabis by a patient, or the acquisition, possession, delivery, transportation or administration of medical cannabis by a caregiver, for use as part of the treatment of the patient’s serious medical condition, as authorized in a certification under this act, including enabling the patient to tolerate treatment for the serious medical condition.

(6) “Change in control” means the acquisition by a person or group of persons acting in concert of a controlling interest in an applicant or permittee either all at one time or over the span of a 12-consecutive-month period.

(7) “Commissioner” means the Commissioner of the Bureau for Public Health.

(8) “Continuing care” means treating a patient for at least six months, in the course of which the practitioner has completed a full assessment of the patient’s medical history and current medical condition, including an in-person consultation with the patient, and is able to document and make a medical diagnosis based upon the substantive treatment of the patient.

(9) “Controlling interest” means:

(A) For a publicly traded entity, voting rights that entitle a person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of five percent or more of the securities of the publicly traded entity.

(B) For a privately held entity, the ownership of any security in the entity.

(10) “Dispensary” means a person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the bureau to dispense medical cannabis. The term
(11) “Family or household member” means the same as defined in section two hundred four, article twenty-seven, chapter forty-eight of this code.

(12) “Financial backer” means an investor, mortgagee, bondholder, note holder or other source of equity, capital or other assets, other than a financial institution.

(13) “Financial institution” means a bank, a national banking association, a bank and trust company, a trust company, a savings and loan association, a building and loan association, a mutual savings bank, a credit union or a savings bank.

(14) “Form of medical cannabis” means the characteristics of the medical cannabis recommended or limited for a particular patient, including the method of consumption and any particular dosage, strain, variety and quantity or percentage of medical cannabis or particular active ingredient.

(15) “Fund” means the Medical Cannabis Program Fund established in section two, article nine of this chapter.

(16) “Grower” means a person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the bureau under this act to grow medical cannabis. The term does not include a health care medical cannabis organization under article thirteen of this chapter.

(17) “Grower/processor” means either a grower or a processor.

(18) “Identification card” means a document issued under article five of this chapter that authorizes access to medical cannabis under this act.
(19) “Individual dose” means a single measure of medical cannabis.

(20) “Medical cannabis” means cannabis for certified medical use as set forth in this act.

(21) “Medical cannabis organization” means a dispensary, grower or processor. The term does not include a health care medical cannabis organization under article thirteen of this chapter.

(22) “Patient” means an individual who:

(A) Has a serious medical condition;

(B) Has met the requirements for certification under this act; and

(C) Is a resident of this state.

(23) “Permit” means an authorization issued by the bureau to a medical cannabis organization to conduct activities under this act.

(24) “Physician” means a doctor of allopathic or osteopathic medicine who is fully licensed pursuant to the provisions of either article three or article fourteen, chapter thirty of this code to practice medicine and surgery in this state.

(25) “Post-traumatic stress disorder” means a diagnosis made as part of continuing care of a patient by a medical doctor, licensed counselor or psychologist.

(26) “Practitioner” means a physician who is registered with the bureau under article four of this chapter.

(27) “Prescription drug monitoring program” means the West Virginia Controlled Substances Monitoring program under article nine, chapter sixty-a of this code.
(28) “Principal” means an officer, director or person who directly owns a beneficial interest in or ownership of the securities of an applicant or permittee, a person who has a controlling interest in an applicant or permittee or who has the ability to elect the majority of the board of directors of an applicant or permittee or otherwise control an applicant or permittee, other than a financial institution.

(29) “Processor” means a person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the bureau under this act to process medical cannabis. The term does not include a health care medical cannabis organization under article thirteen of this chapter.

(30) “Registry” means the registry established by the bureau for practitioners.

(31) “Serious medical condition” means any of the following, as has been diagnosed as part of a patient’s continuing care:

(A) Cancer.

(B) Positive status for human immunodeficiency virus or acquired immune deficiency syndrome.

(C) Amyotrophic lateral sclerosis.

(D) Parkinson’s disease.

(E) Multiple sclerosis.

(F) Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.

(G) Epilepsy.

(H) Neuropathies.

(I) Huntington’s disease.
138  (J) Crohn’s disease.
139  (K) Post-traumatic stress disorder.
140  (L) Intractable seizures.
141  (M) Sickle cell anemia.
142  (N) Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or has proved ineffective as determined as part of continuing care.
147  (O) Terminally ill.
148  (32) “Terminally ill” means a medical prognosis of life expectancy of approximately one year or less if the illness runs its normal course.

ARTICLE 3. MEDICAL CANNABIS PROGRAM.

§16A-3-1. Establishment of program.

1  (a) A medical cannabis program for patients suffering from serious medical conditions is established. The program shall be implemented and administered by the bureau. The bureau shall:

5  (1) Issue permits to medical cannabis organizations to authorize them to grow, process or dispense medical cannabis and ensure their compliance with this act.

8  (2) Register practitioners and ensure their compliance with this act.

10  (3) Have regulatory and enforcement authority over the growing, processing, sale and use of medical cannabis in this state.

13  (4) Establish and maintain an electronic database to include activities and information relating to medical
cannabis organizations, certifications and identification cards issued, practitioner registration and electronic tracking of all medical cannabis as required under this act to include:

(A) Ensurance that medical cannabis is not diverted or otherwise used for unlawful purposes by a practitioner or medical cannabis organization.

(B) Ability to establish the authenticity of identification cards.

(C) Recording recommended forms of medical cannabis provided in a certification filed by the practitioner.

(D) Monitoring all growth, transfer, possession, processing, testing and dispensing of medical cannabis in this state.

(E) The tracking system under article seven of this chapter must include information under section one, article eight of this chapter and any other information required by the bureau to be used by the bureau and dispensaries to enable a dispensary to lawfully provide medical cannabis. The tracking system and database shall be capable of providing information in real time. The database shall be capable of receiving information from a dispensary regarding the disbursement of medical cannabis to patients and caregivers. This information shall be immediately accessible to the bureau and other dispensaries to inhibit diversion and ensure compliance with this act.

(5) Maintain a directory of patients and caregivers approved to use or assist in the administration of medical cannabis within the bureau’s database.

(6) Develop a four-hour training course for physicians regarding the latest scientific research on medical cannabis, including the risks and benefits of medical cannabis and other information deemed necessary by the bureau.
Successful completion of the course shall be approved as continuing education credits as determined by:

(A) The State Board of Medicine.

(B) The State Board of Osteopathic Medicine.

(7) Develop a two-hour course for the principals and employees of a medical cannabis organization who either have direct contact with patients or caregivers or who physically handle medical cannabis. Employees must successfully complete the course no later than ninety days after commencing employment. Principals must successfully complete the course prior to commencing initial operation of the medical cannabis organization. The subject matter of the course shall include the following:

(A) Methods to recognize and report unauthorized activity, including diversion of medical cannabis for unlawful purposes and falsification of identification cards.

(B) Proper handling of medical cannabis and recordkeeping.

(C) Any other subject required by the bureau.

(8) Develop enforcement procedures, including announced and unannounced inspections of facilities of the growerprocessors and dispensaries and all records of the medical cannabis organizations.

(9) Establish a program to authorize the use of medical cannabis to conduct medical research relating to the use of medical cannabis to treat serious medical conditions, including the collection of data and the provision of research grants.

(10) Establish and maintain public outreach programs about the medical cannabis program, including:
(A) A dedicated telephone number for patients, caregivers and members of the public to obtain basic information about the dispensing of medical cannabis under this act.

(B) A publicly accessible Internet website with similar information.

(11) Collaborate as necessary with other state agencies or contract with third parties as necessary to carry out the provisions of this act.

(12) Determine the number and type of medical cannabis products to be produced by a grower/processor and dispensed by a dispensary.

(13) Develop recordkeeping requirements for all books, papers, any electronic database or tracking system data and other information of a medical cannabis organization. Information shall be retained for a minimum period of four years unless otherwise provided by the bureau.

(14) Restrict the advertising and marketing of medical cannabis, which shall be consistent with the Federal rules and regulations governing prescription drug advertising and marketing.

(b) The bureau shall propose rules for legislative promulgation pursuant to the provisions of article three, chapter twenty-nine-a of this code as may be necessary to carry out and implement the provisions of this act. The bureau shall also have the power to propose and promulgate emergency rules as may be necessary to carry out and implement the provisions of this act.

§16A-3-2. Lawful use of medical cannabis.

(a) Notwithstanding any provision of law to the contrary, the use or possession of medical cannabis as set forth in this act is lawful within this state, subject to the following conditions:
(1) Medical cannabis may only be dispensed to:

(A) A patient who receives a certification from a practitioner and is in possession of a valid identification card issued by the bureau; and

(B) A caregiver who is in possession of a valid identification card issued by the bureau.

(2) Subject to rules promulgated under this act, medical cannabis may only be dispensed to a patient or caregiver in the following forms:

(A) Pill;

(B) Oil;

(C) Topical forms, including gels, creams or ointments;

(D) A form medically appropriate for administration by vaporization or nebulization, excluding dry leaf or plant form until dry leaf or plant forms become acceptable under rules adopted by the bureau;

(E) Tincture;

(F) Liquid; or

(G) Dermal patch.

(3) Unless otherwise provided in rules adopted by the bureau under section two, article eleven of this chapter, medical cannabis may not be dispensed to a patient or a caregiver in dry leaf or plant form.

(4) An individual may not act as a caregiver for more than five patients.

(5) A patient may designate up to two caregivers at any one time.
(6) Medical cannabis that has not been used by the patient shall be kept in the original package in which it was dispensed.

(7) A patient or caregiver shall possess an identification card whenever the patient or caregiver is in possession of medical cannabis.

(8) Products packaged by a grower/processor or sold by a dispensary shall only be identified by the name of the grower/processor, the name of the dispensary, the form and species of medical cannabis, the percentage of tetrahydrocannabinol and cannabinoil contained in the product.

**§16A-3-3. Unlawful use of medical cannabis.**

(a) Except as provided in section two of this article, section four of article seven, article thirteen or article fourteen of this chapter, the use of medical cannabis is unlawful and shall, in addition to any other penalty provided by law, be deemed a violation of the Uniform Controlled Substances Act under chapter sixty-a of this code.

(b) It shall be unlawful to:

(1) Smoke medical cannabis.

(2) Except as provided under subsection (c), incorporate medical cannabis into edible form or sell in edible form.

(3) Grow medical cannabis unless the grower/processor has received a permit from the bureau under this act.

(4) Grow or dispense medical cannabis unless authorized as a health care medical cannabis organization under article thirteen of this chapter.

(5) Dispense medical cannabis unless the dispensary has received a permit from the bureau under this act.
(c) Edible medical cannabis. — Nothing in this act shall be construed to preclude the incorporation of medical cannabis into edible form by a patient or a caregiver in order to aid ingestion of the medical cannabis by the patient.

§16A-3-4. Confidentiality.

(a) Patient information. — The bureau shall maintain a confidential list of patients and caregivers to whom it has issued identification cards. All information obtained by the bureau relating to patients, caregivers and other applicants shall be confidential and not subject to public disclosure under chapter twenty-nine-b of this code, including specifically the following:

(1) Individual identifying information about patients and caregivers.

(2) Certifications issued by practitioners.

(3) Information on identification cards.

(4) Information provided by the West Virginia State Police under section two, article five of this chapter.

(5) Information relating to the patient’s serious medical condition.

(b) Public information. — The following records are public records and shall be subject to the Freedom of Information Act, under chapter twenty-nine-b of this code:

(1) Applications for permits submitted by medical cannabis organizations.

(2) The names, business addresses and medical credentials of practitioners authorized to provide certifications to patients to enable them to obtain and use medical cannabis in this state. All other practitioner registration information shall be confidential and exempt
§16A-3-5. Reciprocity for terminally ill cancer patients.

The bureau may enter into reciprocity agreements with any states that have comparable requirements for the use and lawful purchase of medical cannabis in a manner consistent with the provisions of this article to allow terminally ill cancer patients to purchase medical cannabis in another state.

ARTICLE 4. PRACTITIONERS.

§16A-4-1. Registration.

(a) Eligibility. — A physician included in the registry is authorized to issue certifications to patients to use medical cannabis. To be eligible for inclusion in the registry:

(1) A physician must apply for registration in the form and manner required by the bureau.

(2) The bureau must determine that the physician is, by training or experience, qualified to treat a serious medical condition. The physician shall provide documentation of credentials, training or experience as required by the bureau.

(3) The physician must have successfully completed the course under subsection (a), section one, article three of this chapter.

(b) Bureau action. —

(1) The bureau shall review an application submitted by a physician to determine whether to include the physician in the registry. The review shall include information regarding
whether the physician has a valid, unexpired, unrevoked, unsuspended license to practice medicine in this state and whether the physician has been subject to discipline.

(2) The inclusion of a physician in the registry shall be subject to annual review to determine if the physician’s license is no longer valid, has expired or been revoked or the physician has been subject to discipline. If the license is no longer valid, the bureau shall remove the physician from the registry until the physician holds a valid, unexpired, unrevoked, unsuspended state license to practice medicine in West Virginia.

(3) The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine shall report to the bureau the expiration, suspension or revocation of a physician’s license and any disciplinary actions in a timely fashion.

c) Practitioner requirements. — A practitioner included in the registry shall have an ongoing responsibility to immediately notify the bureau in writing if the practitioner knows or has reason to know that any of the following is true with respect to a patient for whom the practitioner has issued a certification:

(1) The patient no longer has the serious medical condition for which the certification was issued.

(2) Medical cannabis would no longer be therapeutic or palliative.

(3) The patient has died.

§16A-4-2. Practitioner restrictions.

(a) Practices prohibited. — The following shall apply with respect to practitioners:

(1) A practitioner may not accept, solicit or offer any form of remuneration from or to a prospective patient,
patient, prospective caregiver, caregiver or medical cannabis organization, including an employee, financial backer or principal, to certify a patient, other than accepting a fee for service with respect to the examination of the prospective patient to determine if the prospective patient should be issued a certification to use medical cannabis.

(2) A practitioner may not hold a direct or economic interest in a medical cannabis organization.

(3) A practitioner may not advertise the practitioner’s services as a practitioner who can certify a patient to receive medical cannabis.

(b) Unprofessional conduct. — A practitioner who violates subsection (a) of this section shall not be permitted to issue certifications to patients and shall be removed from the registry.

(c) Discipline. — In addition to any other penalty that may be imposed under this act, a violation of subsection (a) of this section or subsection (f), section three of this article shall be deemed unprofessional conduct under the West Virginia Medical Practice Act, and shall subject the practitioner to discipline by the West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine, as appropriate.

§16A-4-3. Issuance of certification.

(a) Conditions for issuance. — A certification to use medical cannabis may be issued by a practitioner to a patient if all of the following requirements are met:

(1) The practitioner has been approved by the bureau for inclusion in the registry and has a valid, unexpired, unrevoked, unsuspended license to practice medicine in this state at the time of the issuance of the certification.
(2) The practitioner has determined that the patient has a serious medical condition and has included the condition in the patient’s health care record.

(3) The patient is under the practitioner’s continuing care for the serious medical condition.

(4) In the practitioner’s professional opinion and review of past treatments, the practitioner determines the patient is likely to receive therapeutic or palliative benefit from the use of medical cannabis, and other treatments, including treatments involving opioids, have proven ineffective or otherwise are contraindicated.

(b) **Contents.** — The certification shall include:

1. The patient’s name, date of birth and address.
2. The specific serious medical condition of the patient.
3. A statement by the practitioner that the patient has a serious medical condition and the patient is under the practitioner’s continuing care for the serious medical condition.
4. The date of issuance.
5. The name, address, telephone number and signature of the practitioner.
6. Any requirement or limitation concerning the appropriate form of medical cannabis and limitation on the duration of use, if applicable, including whether the patient is terminally ill.

(c) **Consultation.** — (1) A practitioner shall review the prescription drug monitoring program prior to:

(A) Issuing a certification to determine the controlled substance history of a patient.
(B) Recommending a change of amount or form of medical cannabis.

(2) The practitioner shall consider and give due consideration to other controlled substances the patient may be taking prior to certifying medical cannabis.

(d) Other access by practitioner. — A practitioner may access the prescription drug monitoring program to do any of the following:

(1) Determine whether a patient may be under treatment with a controlled substance by another physician or other person.

(2) Allow the practitioner to review the patient’s controlled substance history as deemed necessary by the practitioner.

(3) Provide to the patient, or caregiver on behalf of the patient if authorized by the patient, a copy of the patient’s controlled substance history.

(e) Duties of practitioner. — The practitioner shall:

(1) Provide the certification to the patient.

(2) Provide a copy of the certification to the bureau, which shall place the information in the patient directory within the bureau’s electronic database. The bureau shall permit electronic submission of the certification.

(3) File a copy of the certification in the patient’s health care record.

(f) Prohibition. — A practitioner may not issue a certification for the practitioner’s own use or for the use of a family or household member.

§16A-4-4. Certification form.
The bureau shall develop a standard certification form, which shall be available to practitioners upon request. The form shall be available electronically. The form shall include a statement that a false statement made by a practitioner is punishable under the applicable provisions of law.

§16A-4-5. Duration.

Receipt of medical cannabis by a patient or caregiver from a dispensary may not exceed a 30-day supply of individual doses. During the last seven days of any 30-day period during the term of the identification card, a patient may obtain and possess a 30-day supply for the subsequent 30-day period. Additional 30-day supplies may be provided in accordance with this section for the duration of the authorized period of the identification card unless a shorter period is indicated on the certification.

ARTICLE 5. PATIENTS.

§16A-5-1. Identification cards.

(a) Issuance. — The bureau may issue an identification card to a patient who has a certification approved by the bureau and to a caregiver designated by the patient. An identification card issued to a patient shall authorize the patient to obtain and use medical cannabis as authorized by this act. An identification card issued to a caregiver shall authorize the caregiver to obtain medical cannabis on behalf of the patient.

(b) Procedure for issuance. — The bureau shall develop and implement procedures for:

(1) Review and approval of applications for identification cards.

(2) Issuance of identification cards to patients and caregivers.
(3) Review of the certification submitted by the practitioner and the patient.

(c) **Application.** — A patient or a caregiver may apply, in a form and manner prescribed by the bureau, for issuance or renewal of an identification card. A caregiver must submit a separate application for issuance or renewal. Each application must include:

(1) The name, address and date of birth of the patient.

(2) The name, address and date of birth of a caregiver.

(3) The certification issued by the practitioner.

(4) The name, address and telephone number of the practitioner and documentation from the practitioner that all of the requirements of subsection (a), section three, article four of this chapter have been met.

(5) A $50 processing fee. The bureau may waive or reduce the fee if the applicant demonstrates financial hardship.

(6) The signature of the applicant and date signed.

(7) Other information required by the bureau.

(d) **Forms.** — Application and renewal forms shall be available on the bureau’s publicly accessible Internet website.

(e) **Expiration.** — An identification card of a patient or caregiver shall expire within one year from the date of issuance, upon the death of the patient, or as otherwise provided in this section.

(f) **Separate cards to be issued.** — The bureau shall issue separate identification cards for patients and caregivers as soon as reasonably practicable after receiving completed applications, unless it determines that an
application is incomplete or factually inaccurate, in which case it shall promptly notify the applicant.

(g) Change in name or address. — A patient or caregiver who has been issued an identification card shall notify the bureau within ten days of any change of name or address. In addition, the patient shall notify the bureau within ten days if the patient no longer has the serious medical condition noted on the certification.

(h) Lost or defaced card. — In the event of a lost, stolen, destroyed or illegible identification card, the patient or caregiver shall apply to the bureau within ten business days of discovery of the loss or defacement of the card for a replacement card. The application for a replacement card shall be on a form furnished by the bureau and accompanied by a $25 fee. The bureau may establish higher fees for issuance of second and subsequent replacement identification cards. The bureau may waive or reduce the fee in cases of demonstrated financial hardship. The bureau shall issue a replacement identification card as soon as practicable. A patient or caregiver may not obtain medical cannabis until the bureau issues the replacement card.


(a) Requirements. —

(1) If the patient designates a caregiver, the application shall include the name, address and date of birth of the caregiver, and other individual identifying information required by the bureau and the following:

(A) Federal and state criminal history record information as set forth in subsection (b) of this section.

(B) If the caregiver has an identification card for the caregiver or another patient, the expiration date of the identification card.

(C) Other information required by the bureau.
(2) The application shall be accompanied by a fee of $50. The bureau may waive or reduce the fee in cases of demonstrated financial hardship.

(3) The bureau may require additional information for the application.

(4) The application shall be signed and dated by the applicant.

(b) Criminal history. — A caregiver shall submit fingerprints for the purpose of obtaining criminal history record checks, and the West Virginia State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to a caregiver obtained under this section by the bureau may be interpreted and used by the bureau only to determine the applicant’s character, fitness and suitability to serve as a caregiver under this act. The bureau shall also review the prescription drug monitoring program relating to the caregiver. The bureau shall deny the application of a caregiver who has been convicted of a criminal offense that occurred within the past five years relating to the felony sale or possession of drugs, narcotics or controlled substances, or conspiracy thereof. The bureau may deny an application if the applicant has a history of drug abuse or of diverting controlled substances or illegal drugs.


An application for an identification card shall include notice that a false statement made in the application is punishable under the applicable provisions of law.

§16A-5-4. Verification.

The bureau shall verify the information in a patient or caregiver’s application and on any renewal form.
§16A-5-5. Special conditions.

1 The following apply:

2 (1) If the practitioner states in the certification that, in
3 the practitioner’s professional opinion, the patient would
4 benefit from medical cannabis only until a specified earlier
5 date, then the identification card shall expire on that date.

6 (2) If the certification so provides, the identification
7 card shall state any requirement or limitation by the
8 practitioner as to the form of medical cannabis for the
9 patient.


1 If a patient is under eighteen years of age, the following
2 shall apply:

3 (1) The patient shall have a caregiver.

4 (2) A caregiver must be one of the following:

5 (A) A parent or legal guardian of the patient.

6 (B) An individual designated by a parent or legal
7 guardian.

8 (C) An appropriate individual approved by the bureau
9 upon a sufficient showing that no parent or legal guardian is
10 appropriate or available.


1 (a) *Age.* — An individual who is under twenty-one
2 years of age may not be a caregiver unless a sufficient
3 showing, as determined by the bureau, is made to the bureau
4 that the individual should be permitted to serve as a
5 caregiver.

6 (b) *Changing caregiver.* — If a patient wishes to
7 change or terminate the designation of the patient’s
caregiver, for whatever reason, the patient shall notify the bureau as soon as practicable. The bureau shall issue a notification to the caregiver that the caregiver’s identification card is invalid and must be promptly returned to the bureau.

(c) Denial in part. — If an application of a patient designates an individual as a caregiver who is not authorized to be a caregiver, that portion of the application shall be denied by the bureau. The bureau shall review the balance of the application and may approve that portion of it.


An identification card shall contain the following:

(1) The name of the caregiver or the patient, as appropriate. The identification card shall also state whether the individual is designated as a patient or as a caregiver.

(2) The date of issuance and expiration date.

(3) An identification number for the patient or caregiver, as appropriate.

(4) A photograph of the individual to whom the identification card is being issued, whether the individual is a patient or a caregiver. The method of obtaining the photograph shall be specified by the bureau by rule. The bureau shall provide reasonable accommodation for a patient who is confined to the patient’s home or is in inpatient care.

(5) Any requirement or limitation set by the practitioner as to the form of medical cannabis.

(6) Any other requirements determined by the bureau, except the bureau may not require that an identification card disclose the patient’s serious medical condition.

§16A-5-9. Suspension.
If a patient or caregiver intentionally, knowingly or recklessly violates any provision of this act as determined by the bureau, the identification card of the patient or caregiver may be suspended or revoked. The suspension or revocation shall be in addition to any criminal or other penalty that may apply.


The following prohibitions shall apply:

(1) A patient may not operate or be in physical control of any of the following while under the influence with a blood content of more than three nanograms of active tetrahydrocannabin per milliliter of blood in serum:

(A) Chemicals which require a permit issued by the Federal Government or a state government or an agency of the Federal Government or a state government.

(B) High-voltage electricity or any other public utility.

(C) Vehicle, aircraft, train, boat or heavy machinery.

(2) A patient may not perform any employment duties at heights or in confined spaces, including, but not limited to, mining while under the influence of medical cannabis.

(3) A patient may be prohibited by an employer from performing any task which the employer deems life-threatening, to either the employee or any of the employees of the employer, while under the influence of medical cannabis. The prohibition shall not be deemed an adverse employment decision even if the prohibition results in financial harm for the patient.

(4) A patient may be prohibited by an employer from performing any duty which could result in a public health or safety risk while under the influence of medical cannabis. The prohibition shall not be deemed an adverse employment
decision even if the prohibition results in financial harm for the patient.

ARTICLE 6. MEDICAL CANNABIS ORGANIZATIONS.

§16A-6-1. Authorized medical cannabis organizations.

The following entities shall be authorized to receive a permit to operate as a medical cannabis organization to grow, process or dispense medical cannabis:

1. Growers.
2. Processors.
3. Dispensaries.

§16A-6-2. Permits.

(a) Application. — An application for a grower, processor or dispensary permit to grow, process or dispense medical cannabis shall be in a form and manner prescribed by the bureau and shall include:

1. Verification of all principals, operators, financial backers or employees of a medical cannabis grower/processor or dispensary.
2. A description of responsibilities as a principal, operator, financial backer or employee.
3. Any release necessary to obtain information from governmental agencies, employers and other organizations.
4. A criminal history record check. Medical cannabis organizations applying for a permit shall submit fingerprints of principals, financial backers, operators and employees to the West Virginia State Police for the purpose of obtaining criminal history record checks and the West Virginia State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the principals, financial backers,
operators and employees and obtaining a current record of any criminal arrests and convictions. Any criminal history record information relating to principals, financial backers, operators and employees obtained under this section by the bureau may be interpreted and used by the bureau only to determine the principal’s, financial backer’s, operator’s and employee’s character, fitness and suitability to serve as a principal, financial backer, operator and employee under this act. This subdivision shall not apply to an owner of securities in a publicly traded corporation if the bureau determines that the owner of the securities is not substantially involved in the activities of the medical cannabis organization.

(5) Details relating to a similar license, permit or other authorization obtained in another jurisdiction, including any suspensions, revocations or discipline in that jurisdiction.

(6) A description of the business activities in which it intends to engage as a medical cannabis organization.

(7) A statement that the applicant:

(A) Is of good moral character. For purposes of this subparagraph, an applicant shall include each financial backer, operator, employee and principal of the medical cannabis organization.

(B) Possesses the ability to obtain in an expeditious manner the right to use sufficient land, buildings and other premises and equipment to properly carry on the activity described in the application and any proposed location for a facility.

(C) Is able to maintain effective security and control to prevent diversion, abuse and other illegal conduct relating to medical cannabis.

(D) Is able to comply with all applicable State laws and rules relating to the activities in which it intends to engage under this act.
(8) The name, residential address and title of each financial backer and principal of the applicant. Each individual, or lawful representative of a legal entity, shall submit an affidavit with the application setting forth:

(A) Any position of management or ownership during the preceding ten years of a controlling interest in any other business, located inside or outside this state, manufacturing or distributing controlled substances.

(B) Whether the person or business has been convicted of a criminal offense graded higher than a summary offense or has had a permit relating to medical cannabis suspended or revoked in any administrative or judicial proceeding.

(9) Any other information the bureau may require.

(b) Notice. — An application shall include notice that a false statement made in the application is punishable under the applicable provisions of law.

§16A-6-3. Granting of permit.

(a) The bureau may grant or deny a permit to a grower, processor or dispensary. In making a decision under this subsection, the bureau shall determine that:

(1) The applicant will maintain effective control of and prevent diversion of medical cannabis.

(2) The applicant will comply with all applicable laws of this state.

(3) The applicant is a resident of this state, or is organized under the law of this state.

(4) The applicant is ready, willing and able to properly carry on the activity for which a permit is sought.

(5) The applicant possesses the ability to obtain in an expeditious manner sufficient land, buildings and
equipment to properly grow, process or dispense medical cannabis.

(6) It is in the public interest to grant the permit.

(7) The applicant, including the financial backer or principal, is of good moral character and has the financial fitness necessary to operate.

(8) The applicant is able to implement and maintain security, tracking, recordkeeping and surveillance systems relating to the acquisition, possession, growth, manufacture, sale, delivery, transportation, distribution or the dispensing of medical cannabis as required by the bureau.

(9) The applicant satisfies any other conditions as determined by the bureau.

(b) Nontransferability. — A permit issued under this chapter shall be nontransferable.

(c) Privilege. — The issuance or renewal of a permit shall be a revocable privilege.

(d) Regions. — The bureau shall establish a minimum of three regions within this state for the purpose of granting permits to grower/processors and dispensaries and enforcing this act. The bureau shall approve permits for growers, processors and dispensaries in a manner which will provide an adequate amount of medical cannabis to patients and caregivers in all areas of this state. The bureau shall consider the following when issuing a permit:

(1) Regional population.

(2) The number of patients suffering from serious medical conditions.

(3) The types of serious medical conditions.

(4) Access to public transportation.
(5) Approval by local health departments.

(6) Whether the county has disallowed the location of a grower, processor or dispensary.

(7) Any other factor the bureau deems relevant.

§16A-6-4. Notice.

When the boundaries under subsection (d), section three of this article are established, the bureau shall publish notice of the determination in the State Register. The bureau may adjust the boundaries as necessary every two years. Notice of any adjustment to the boundaries shall be published in the State Register.

§16A-6-5. Application and issuance.

(a) Duty to report. — An applicant to be a grower/processor or to operate a dispensary is under a continuing duty to:

(1) Report to the bureau any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application, including a change in control of the medical cannabis organization.

(2) Report to law enforcement, within twenty-four hours, any loss or theft of medical cannabis.

(3) Submit to announced or unannounced inspections by the bureau of the facilities for growing, processing, dispensing or selling medical cannabis, including all records of the organization.

(b) Additional information. — If the bureau is not satisfied that the applicant should be issued a permit, the bureau shall notify the applicant in writing of the factors for which further documentation is required. Within thirty days of the receipt of the notification, the applicant may submit additional material to the bureau.
§16A-6-6. Fees and other requirements.

1 The following apply:

2 (1) For a grower or processor:

3       (A) An initial application fee in the amount of $5,000 shall be paid. The fee is nonrefundable.

4       (B) A fee for a permit as a grower/processor in the amount of $50,000 shall be paid. The permit shall be valid for one year. Applicants shall submit the permit fee at the time of submission of the application. The fee shall be returned if the permit is not granted.

5       (C) A renewal fee for the permit as a grower/processor in the amount of $5,000 shall be paid and shall cover renewal for all locations. The renewal fee shall be returned if the renewal is not granted.

6       (D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

7       (E) All fees shall be paid by certified check or money order.

8 (2) For a dispensary:

9       (A) An initial application fee in the amount of $2,500 shall be paid. The fee is nonrefundable.

10       (B) A permit fee for a dispensary shall be $10,000 for each location. The period of the permit is one year. An applicant shall submit the permit fee at the time of submission of the application. The fee shall be returned if the application is not granted.

11       (C) A renewal fee for the permit as a dispensary in the amount of $2,500 shall be paid. The fee shall be returned if the renewal is not granted and shall cover renewal for all locations.
(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check or money order.

(3) A fee of $250 shall be required when amending the application to indicate relocation within this state or the addition or deletion of approved activities by the medical cannabis organization.

(4) Fees payable under this section shall be deposited into the fund.

§16A-6-7. Issuance.

A permit issued by the bureau to a medical cannabis organization shall be effective only for that organization and shall specify the following:

(1) The name and address of the medical cannabis organization.

(2) The activities of the medical cannabis organization permitted under this act.

(3) The land, buildings, facilities or location to be used by the medical cannabis organization.

(4) Any other information required by the bureau.

§16A-6-8. Relocation.

The bureau may approve an application from a medical cannabis organization to relocate within this state or to add or delete activities or facilities.

§16A-6-9. Terms of permit.

A permit issued by the bureau shall be valid for one year from the date of issuance.
§16A-6-10. Permit renewals.

(a) Renewal. — An application for renewal shall include the following information:

(1) Any material change in the information provided by the medical cannabis organization in a prior application or renewal of a permit.

(2) Any charge or initiated, pending or concluded investigation, during the period of the permit, by any governmental or administrative agency with respect to:

(A) Any incident involving the theft, loss or possible diversion of medical cannabis grown, processed or dispensed by the applicant; and

(B) Compliance by the applicant with the laws of this state with respect to any substance listed under article two, chapter sixty-a of this code.

(b) Approval. — The bureau shall renew a permit unless the bureau determines that:

(1) The applicant is unlikely to maintain or be able to maintain effective control against diversion of medical cannabis.

(2) The applicant is unlikely to comply with all laws of this state applicable to the activities in which it may engage under the permit.

(c) Nonrenewal decision. — The denial or nonrenewal shall specify in detail how the applicant has not satisfied the bureau’s requirements for renewal. Within thirty days of the bureau’s decision, the applicant may submit additional material to the bureau or demand a hearing, or both. If a hearing is demanded, the bureau shall fix a date as soon as practicable.

§16A-6-11. Suspension or revocation.
The bureau may suspend or revoke a medical cannabis organization permit if:

(1) The bureau has evidence that the medical cannabis organization has failed to maintain effective control against diversion of medical cannabis.

(2) The organization violates any provision of this act or a rule of the bureau.

(3) The organization has intentionally, knowingly, recklessly or negligently failed to comply with applicable laws of this State relating to medical cannabis.

§16A-6-12. Convictions prohibited.

(a) The following individuals may not hold volunteer positions or positions with remuneration in or be affiliated with a medical cannabis organization, including a clinical registrant under article fourteen of this chapter, in any way if the individual has been convicted of any felony criminal offense related to the sale or possession of illegal drugs, narcotics or controlled substances, or conspiracy thereof:

(1) Financial backers.

(2) Principals.

(3) Employees.

(b) If an individual seeking to hold a volunteer position or position with remuneration in or be affiliated with a dispensary is otherwise prohibited under subsection (a) of this section, such individual may seek a waiver from the bureau in order to hold such a position with a dispensary. The allowance of the waiver, including any additional restrictions or conditions as part of the waiver, shall be in the discretion of the bureau.

§16A-6-13. Limitations on permits.
(a) The following limitations apply to approval of permits for growers, processors and dispensaries, subject to the limitations in subsection (b) of this section:

(1) The bureau may not issue permits to more than ten growers: Provided, That each grower may have up to two locations per permit.

(2) The bureau may not issue permits to more than ten processors.

(3) The bureau may not issue permits to more than thirty dispensaries, with no more than five in any region.

(4) The bureau may not issue more than two individual dispensary permits to one person.

(5) The bureau may not issue more than one individual grower permit to one person.

(6) The bureau may not issue more than one individual processor permit to one person.

(7) A dispensary may only obtain medical cannabis from a grower or processor holding a valid permit under this act.

(8) A grower or processor may only provide medical cannabis to a dispensary holding a valid permit under this act.

(9) A grower or a processor may not be a dispensary.

(b) Before a permit may be issued, the bureau shall obtain the following:

(1) A written approval from the Board of Health for the county in which the permit is to be located and operate business.

(2) A written statement from the county commission for the county in which the permit is to be located and conduct
business that the County has not voted, pursuant to section six, article seven of this chapter to disapprove a medical cannabis organization to be located or operate within the county.

ARTICLE 7. MEDICAL CANNABIS CONTROLS.

§16A-7-1. Electronic tracking.

(a) Requirement. — A medical cannabis organization must implement an electronic inventory tracking system which shall be directly accessible to the bureau through its electronic database that electronically tracks all medical cannabis on a daily basis. The system shall include tracking of all of the following:

(1) For a grower or processor, a seed-to-sale tracking system that tracks the medical cannabis from seed to plant until the medical cannabis is sold to a dispensary.

(2) For a dispensary, medical cannabis from purchase from the grower/processor to sale to a patient or caregiver and that includes information that verifies the validity of an identification card presented by the patient or caregiver.

(3) For a medical cannabis organization, a daily log of each day’s beginning inventory, acquisitions, amounts purchased and sold, disbursements, disposals and ending inventory. The tracking system shall include prices paid and amounts collected from patients and caregivers.

(4) For a medical cannabis organization, a system for recall of defective medical cannabis.

(5) For a medical cannabis organization, a system to track the plant waste resulting from the growth of medical cannabis or other disposal, including the name and address of any disposal service.
(b) Additional requirements. — In addition to the information under subsection (a) of this section, each medical cannabis organization shall track the following:

(1) Security and surveillance.

(2) Recordkeeping and record retention.

(3) The acquisition, possession, growing and processing of medical cannabis.

(4) Delivery and transportation, including amounts and method of delivery.

(5) Dispensing, including amounts, pricing and amounts collected from patients and caregivers.

(c) Access. — (1) Information maintained in electronic tracking systems under subsection (a) of this section shall be confidential and not subject to public disclosure under chapter twenty-nine-b of this code.

(2) Pursuant to conditions and procedures established by the bureau, law enforcement shall be provided access to the tracking system.

(d) Reports. — Within one year of the issuance of the first permit to a medical cannabis organization, and every three months thereafter in a form and manner prescribed by the bureau, the following information shall be provided to the bureau, which shall compile the information and post it on the bureau’s publicly accessible Internet website:

(1) The amount of medical cannabis sold by a grower and a processor during each three-month period.

(2) The price of amounts of medical cannabis sold by growers and processors as determined by the bureau.

(3) The amount of medical cannabis purchased by each dispensary in this state.
The cost of amounts of medical cannabis to each dispensary in amounts as determined by the bureau.

The total amount and dollar value of medical cannabis sold by each dispensary in the three-month period.

§16A-7-2. Grower/processors.

(a) Authorization. — Subject to subsection (b), a grower or processor may do all of the following in accordance with bureau rules:

(1) Obtain seed from outside this state to initially grow medical cannabis.

(2) Obtain seed and plant material from another grower/processor within this state to grow medical cannabis.

(b) Limitations. — A grower or processor may only grow, store, harvest or process medical cannabis in an indoor, enclosed, secure facility which:

(1) Includes electronic locking systems, electronic surveillance and other features required by the bureau; and

(2) Is located within this state.

§16A-7-3. Storage and transportation.

The bureau shall develop rules relating to the storage and transportation of medical cannabis among grower/processors, testing laboratories and dispensaries which ensure adequate security to guard against in-transit losses. The tracking system developed by the bureau shall include all transportation and storage of medical cannabis. The rules shall provide for the following:

(1) Requirements relating to shipping containers and packaging.
(2) The manner in which trucks, vans, trailers or other carriers will be secured.

(3) Security systems that include a numbered seal on the trailer.

(4) Obtaining copies of drivers’ licenses and registrations and other information related to security and tracking.

(5) Use of GPS systems.

(6) Number of drivers or other security required to ensure against storage or in-transit losses.

(7) Recordkeeping for delivery and receipt of medical cannabis products.

(8) Requirements to utilize any electronic tracking system required by the bureau.

(9) Transporting medical cannabis to a grower/processor, approved laboratory or dispensary.

§16A-7-4. Laboratory.

A grower and processor shall contract with an independent laboratory to test the medical cannabis produced by the grower or processor. The bureau shall approve the laboratory and require that the laboratory report testing results in a manner as the bureau shall determine, including requiring a test at harvest and a test at final processing. The possession by a laboratory of medical cannabis shall be a lawful use.

§16A-7-5. Prices.

The bureau and the Department of Revenue shall monitor the price of medical cannabis sold by growers, processors and by dispensaries, including a per-dose price. If the bureau and the Department of Revenue determine that the prices are unreasonable or excessive, the bureau may
implement a cap on the price of medical cannabis being sold for a period of six months. The cap may be amended during the six-month period. If the bureau and the Department of Revenue determine that the prices become unreasonable or excessive following the expiration of a six-month cap, additional caps may be imposed for periods not to exceed six months.

§16A-7-6. County prohibition.

A county may pass an ordinance by vote of the residents of the county to prohibit the operation or location of a medical cannabis organization within that particular county. A prohibition under this section shall remain in effect unless and until changed by a subsequent vote.

ARTICLE 8. DISPENSARIES.

§16A-8-1. Dispensing to patients and caregivers.

(a) General rule. — A dispensary that has been issued a permit under article six of this chapter may lawfully dispense medical cannabis to a patient or caregiver upon presentation to the dispensary of a valid identification card for that patient or caregiver. The dispensary shall provide to the patient or caregiver a receipt, as appropriate. The receipt shall include all of the following:

1. The name, address and any identification number assigned to the dispensary by the bureau.
2. The name and address of the patient and caregiver.
3. The date the medical cannabis was dispensed.
4. Any requirement or limitation by the practitioner as to the form of medical cannabis for the patient.
5. The form and the quantity of medical cannabis dispensed.
(b) Requirements. — A dispensary shall have a physician or a pharmacist onsite at all times during the hours the dispensary is open to receive patients and caregivers. A physician or a pharmacist shall, prior to assuming duties under this paragraph, successfully complete the course established in subsection (a), section one, article three of this chapter. A physician may not issue a certification to authorize patients to receive medical cannabis or otherwise treat patients at the dispensary.

(c) Filing with bureau. — Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall file the receipt information with the bureau utilizing the electronic tracking system. When filing receipts under this subsection, the dispensary shall dispose of any electronically recorded certification information as provided by rule.

(d) Limitations. — No dispensary may dispense to a patient or caregiver:

(1) A quantity of medical cannabis greater than that which the patient or caregiver is permitted to possess under the certification; or

(2) A form of medical cannabis prohibited by this act.

(e) Supply. — When dispensing medical cannabis to a patient or caregiver, the dispensary may not dispense an amount greater than a 30-day supply until the patient has exhausted all but a seven-day supply provided pursuant to section five, article four of this chapter.

(f) Verification. — Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall verify the information in subsections (e) and (g) of this section by consulting the electronic tracking system included in the bureau’s electronic database established under section one, article three of this chapter and the dispensary tracking system under section one, article seven of this chapter.
(g) Form of medical cannabis. — Medical cannabis dispensed to a patient or caregiver by a dispensary shall conform to any requirement or limitation set by the practitioner as to the form of medical cannabis for the patient.

(h) Safety insert. — When a dispensary dispenses medical cannabis to a patient or caregiver, the dispensary shall provide to that patient or caregiver, as appropriate, a safety insert. The insert shall be developed and approved by the bureau. The insert shall provide the following information:

1. Lawful methods for administering medical cannabis in individual doses.
2. Any potential dangers stemming from the use of medical cannabis.
3. How to recognize what may be problematic usage of medical cannabis and how to obtain appropriate services or treatment for problematic usage.
4. How to prevent or deter the misuse of medical cannabis by minors or others.
5. Any other information as determined by the bureau.

(i) Sealed and labeled package. — Medical cannabis shall be dispensed by a dispensary to a patient or caregiver in a sealed, properly labeled and child-resistant package. The labeling shall contain the following:

1. The information required to be included in the receipt provided to the patient or caregiver, as appropriate, by the dispensary.
2. The packaging date.
3. Any applicable date by which the medical cannabis should be used.
(4) A warning stating:

“This product is for medicinal use only. Women should not consume during pregnancy or while breastfeeding except on the advice of the practitioner who issued the certification and, in the case of breastfeeding, the infant’s pediatrician. This product might impair the ability to drive or operate heavy machinery. Keep out of reach of children.”

(5) The amount of individual doses contained within the package and the species and percentage of tetrahydrocannabinol and cannabidiol.

(6) A warning that the medical cannabis must be kept in the original container in which it was dispensed.

(7) A warning that unauthorized use is unlawful and will subject the person to criminal penalties.

(8) Any other information required by the bureau.

§16A-8-2. Facility requirements.

(a) General rule. —

1. A dispensary may only dispense medical cannabis in an indoor, enclosed, secure facility located within this state, as determined by the bureau.

2. A dispensary may not operate on the same site as a facility used for growing and processing medical cannabis.

3. A dispensary may not be located within one thousand feet of the property line of a public, private or parochial school or a daycare center.

4. A dispensary may, pursuant to bureau conditions and limitations, sell medical devices and instruments which are needed to administer medical cannabis under this act.

(b) Adjustment or waiver of prohibition. — The bureau may amend a prohibition under subsection (a)(3) of this
section if it is shown by clear and convincing evidence that
the amendment is necessary to provide adequate access to
patients. An amendment may include additional security,
physical plant of a facility or other conditions necessary to
protect children.

§16A-8-3. Posting.

A dispensary shall post a copy of its permit in a location
within its facility in a manner that is easily observable by
patients, caregivers, law enforcement officers and agents of
the bureau.

ARTICLE 9. TAX ON MEDICAL CANNABIS.

§16A-9-1. Tax on medical cannabis.

(a) Tax imposed. — A tax is imposed on the gross
receipts of a grower/processor received from the sale of
medical cannabis by a grower/processor to a dispensary, to
be paid by the grower/processor, at the rate of ten percent.
The tax shall be charged against and be paid by the
grower/processor and shall not be added as a separate
charge or line item on any sales slip, invoice, receipt or other
statement or memorandum of the price paid by a dispensary,
patient or caregiver.

(b) Payment of tax and reports. — A grower/processor
shall make quarterly payments under this section for each
calendar quarter at the rate prescribed in subsection (a) on
the gross receipts for the calendar quarter. The tax shall be
due and payable on the 20th day of January, April, July and
October for the preceding calendar quarter on a form
prescribed by the Department of Revenue.

(c) Deposit of proceeds. — All money received from
the tax imposed under subsection (a) shall be deposited into
the fund.

(d) Exemption. — Medical cannabis shall not be subject
to a sales tax.
(e) Information. — A grower/processor that sells medical cannabis shall provide to the Department of Revenue information required by the bureau.


(a) Fund established. — The Medical Cannabis Program Fund is established as a special fund in the State Treasury. Money in the fund is appropriated as set forth in subsection (c) of this section. Any amount unspent at the end of a fiscal year shall be appropriated to the bureau for its operations.

(b) Source of funds. — Fees and taxes payable under this act shall be deposited into the fund. The money deposited into the fund may only be used for the purposes set forth in this section. Any interest accrued shall be deposited into the fund.

(c) Use of proceeds. — Money in the fund is allocated in accordance with the following percentages:

(1) Fifty-five percent of the revenue in the fund shall be allocated to the bureau.

(2) The remaining forty-five percent of the revenue in the fund shall be allocated as follows:

(A) Fifty percent shall be allocated to the Fight Substance Abuse Fund created by section eight, article nine, chapter sixty-a of the code.

(B) Forty percent shall be allocated to the Division of Justice and Community Services, for grants to local law enforcement agencies for training, drug diversion, and other programs focused on crime and addiction, pursuant to and in accordance with the provisions of article nine-a, chapter fifteen of this code.

(C) Ten percent shall be allocated to the fund created in section four, article twenty-nine, chapter thirty, to be used for law enforcement professional training and professional development programs.
ARTICLE 10. ADMINISTRATION.

§16A-10-1. Administration.

The Commissioner of the Bureau for Public Health may establish and create an Office of Medical Cannabis within the bureau to assist in the administration and enforcement of the provisions of this act.

§16A-10-2. Reports by medical cannabis organizations.

A medical cannabis organization shall periodically file reports related to its activities. The bureau shall determine the information required in and the frequency of filing the reports.

§16A-10-3. Law-enforcement notification.

Notwithstanding any provision of this act or any other law to the contrary, the bureau may notify any appropriate law-enforcement agency of information relating to any violation or suspected violation of this act. In addition, the bureau shall verify to law-enforcement personnel in an appropriate case whether a certification, permit, registration or an identification card is valid, including release of the name of the patient.


The bureau may provide for an analysis and evaluation of the implementation and effectiveness of this act. The bureau may enter into agreements with one or more persons for the performance of an evaluation of the implementation and effectiveness of this act.


(a) Report required. — The bureau shall submit a written report under subsection (b) of this section every two years, beginning two years after the effective date of this section, to the following:

(1) The Governor.
(2) The Joint Committee on Government and Finance.

(3) The Attorney General of the State.

(b) Contents of report. — The following information shall be included in the report:

(1) An assessment of the use of medical cannabis as a result of the enactment of this act.

(2) An assessment of the benefits and risks to patients using medical cannabis under this act, including adverse events.

(3) Recommendations for amendments to this act for reasons of patient safety or to aid the general welfare of the citizens of this state.


(a) Promulgation. — In order to facilitate the prompt implementation of this act, the bureau may promulgate emergency rules that shall expire not later than two years following the publication of the emergency rule.

(b) Expiration. — The bureau’s authority to adopt emergency rules under subsection (a) of this section shall expire two years after the effective date of this section. Rules adopted after this period shall be promulgated as provided by law.

(c) Publication. — The bureau shall begin publishing emergency rules in the State Register no later than six months after the effective date of this section.

ARTICLE 11. MEDICAL CANNABIS ADVISORY BOARD.

§16A-11-1. Advisory board.

(a) The Medical Cannabis Advisory Board is established within the bureau. The advisory board shall consist of the following members:
(1) The commissioner or a designee.

(2) The Superintendent of the West Virginia State Police or a designee.

(3) Four physicians licensed to practice in the state to be appointed by the State Medical Association with one from each of the following specialized medicine:

(A) Family Practice/Neurologist/General Practitioner.

(B) Pain Management.

(C) Oncologist/Palliative Care.

(D) Psychiatrist.

(4) One pharmacist licensed to practice in the state, to be designated by the Board of Pharmacy.

(5) One pharmacologist who has experience in the science of cannabis and a knowledge of the uses, effects, and modes of actions of drugs, to be appointed by the Governor.

(6) One member who is a horticulturalist, to be designated by the West Virginia Commissioner of Agriculture.

(7) One member designated by the West Virginia Association of Alcoholism and Drug Counselors.

(8) An attorney licensed in the state who is knowledgeable about medical cannabis laws.

(9) One member appointed by the West Virginia Prosecuting Attorneys Institute.

(10) One member appointed by the Governor, who shall be a patient, a family or household member of a patient or a patient advocate.
(b) **Terms.** — Except as provided under subsection (g) of this section, the members shall serve a term of four years or until a successor has been appointed and qualified, but no longer than six months beyond the four-year period.

(c) **Chair.** — The commissioner, or a designee, shall serve as chair of the advisory board.

(d) **Voting; quorum.** — A majority of the members shall constitute a quorum for the purpose of organizing the advisory board, conducting its business and fulfilling its duties. A vote of the majority of the members present shall be sufficient for all actions of the advisory board unless the bylaws require a greater number.

(e) **Attendance.** — A member of the advisory board who fails to attend three consecutive meetings shall be deemed vacant, unless the commissioner, upon written request from the member, finds that the member should be excused from a meeting for good cause. A member who cannot be physically present may attend meetings via electronic means, including video conference.

(f) **Governance.** — The advisory board shall have the power to prescribe, amend and repeal bylaws governing the manner in which the business of the advisory board is conducted and the manner in which the duties granted to it are fulfilled. The advisory board may delegate supervision of the administration of advisory board activities to an administrative commissioner and other employees of the bureau as the commissioner shall appoint.

(g) **Initial terms.** — The initial terms of members appointed under shall be for terms of one, two, three or four years, the particular term of each member to be designated by the commissioner at the time of appointment. All other members shall serve for a term of four years.

(h) **Vacancy.** — In the event that any member appointed under subsection (a) of this section shall die or resign or
otherwise become disqualified during the member’s term of office, a successor shall be appointed in the same way and with the same qualifications as set forth in this section and shall hold office for the unexpired term. An appointed member of the advisory board shall be eligible for reappointment.

(i) Expenses. — A member shall receive the amount of reasonable travel, hotel and other necessary expenses incurred in the performance of the duties of the member in accordance with state rules, but shall receive no other compensation for the member’s service on the board.

(j) Duties. — The advisory board shall have the following duties:

(1) To examine and analyze the statutory and regulatory law relating to medical cannabis within this state.

(2) To examine and analyze the law and events in other states and the nation with respect to medical cannabis.

(3) To accept and review written comments from individuals and organizations about medical cannabis.

(4) To issue two years after the effective date of this section a written report to the Governor, the Senate and the House of Delegates.

(5) The written report under subdivision (4) shall include recommendations and findings as to the following:

(A) Whether to change the types of medical professionals who can issue certifications to patients.

(B) Whether to change, add or reduce the types of medical conditions which qualify as serious medical conditions under this act.

(C) Whether to change the form of medical cannabis permitted under this act.
(D) Whether to change, add or reduce the number of growers, processors or dispensaries.

(E) How to ensure affordable patient access to medical cannabis.

(F) Whether to permit medical cannabis to be dispensed in dry leaf or plant form, for administration by vaporization.

(6) The final written report under this section shall be adopted at a public meeting.


After receiving the report of the advisory board, at the discretion of the commissioner, the bureau may propose rules for legislative promulgation pursuant to the provisions of article three, chapter twenty-nine-a of this code to effectuate recommendations made by the advisory board. The commissioner shall issue notice in the State Register within twelve months of the receipt of the report of the advisory board. The notice shall include the recommendations of the advisory board and shall state the specific reasons for the decision of the commissioner on whether or not to effectuate each recommendation.

ARTICLE 12. OFFENSES RELATED TO MEDICAL CANNABIS.

§16A-12-1. Criminal diversion of medical cannabis by practitioners.

In addition to any other penalty provided by law, a practitioner who intentionally and knowingly certifies a person as being able to lawfully receive medical cannabis or who otherwise provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.
§16A-12-2. Criminal diversion of medical cannabis.

(a) In addition to any other penalty provided by law, any employee, financial backer, operator or principal of any qualifying entities who intentionally and knowingly sells, dispenses, trades, delivers or otherwise provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis, is guilty of a felony, and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years.

(b) For purposes of this section, “qualifying entity” shall mean:

1. A medical cannabis organization.
2. A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter.
3. A clinical registrant or academic clinical research center under article fourteen of this chapter.
4. A laboratory utilized to test medical cannabis under section four, article seven of this chapter.

§16A-12-3. Criminal retention of medical cannabis.

In addition to any other penalty provided by law, any patient or caregiver who intentionally and knowingly possesses, stores or maintains an amount of medical cannabis in excess of the amount legally permitted is guilty of a misdemeanor, and upon conviction thereof, shall be confined in jail for not more than six months.

§16A-12-4. Criminal diversion of medical cannabis by patient or caregiver.

In addition to any other penalty provided by law, any patient or caregiver that intentionally and knowingly provides medical cannabis to a person who is not lawfully permitted to receive medical cannabis is guilty of a felony,
and upon conviction thereof, shall be imprisoned in a state
correctional facility for not less than one nor more than five
years.

§16A-12-5. Falsification of identification cards.

In addition to any other penalty provided by law, any
person who commits one of the following, knowing he or
she is not privileged to hold an identification card:

(1) possesses an identification card and either attempts
to use the card to obtain medical cannabis or obtains medical
cannabis;

(2) Possesses an identification card which falsely
identifies the person as being lawfully entitled to receive
medical cannabis and either attempts to use the card to
obtain medical cannabis or obtains medical cannabis; or

(3) Possesses an identification card which contains any
false information on the card and the person either attempts
to use the card to obtain medical cannabis or obtains medical
cannabis, is guilty of a misdemeanor, and upon conviction
thereof, shall be confined in jail for not more than twelve
months.

§16A-12-6. Adulteration of medical cannabis.

In addition to any other penalty provided by law, any
person who adulterates, fortifies, contaminates or changes
the character or purity of medical cannabis from that set
forth on the patient’s or caregiver’s identification card, is
guilty of a felony, and upon conviction thereof, shall be
imprisoned in a state correctional facility for not less than
one nor more than five years.

§16A-12-7. Disclosure of information prohibited.

(a) In addition to any other penalty provided by law, any
employee, financial backer, operator or principal who
discloses, except to authorized persons for official
governmental or health care purposes, any information related to the use of medical cannabis:

(1) A medical cannabis organization.

(2) A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter.

(3) A clinical registrant or academic clinical research center under article fourteen of this chapter.

(4) An employee of the bureau.

(b) *Exception.* — Subsection (a) of this section shall not apply where disclosure is permitted or required by law or by court order.

§16A-12-8. Additional penalties.

(a) *Civil penalties.* — In addition to any other remedy available to the bureau, the bureau may assess a civil penalty for a violation of this act, a rule promulgated under this act or an order issued under this act or rule, subject to the following:

(1) The bureau may assess a penalty of not more than $10,000 for each violation and an additional penalty of not more than $1,000 for each day of a continuing violation. In determining the amount of each penalty, the bureau shall take the following factors into consideration:

(A) The gravity of the violation.

(B) The potential harm resulting from the violation to patients, caregivers or the general public.

(C) The willfulness of the violation.

(D) Previous violations, if any, by the person being assessed.
(E) The economic benefit to the person being assessed for failing to comply with the requirements of this act, a rule promulgated under this act or an order issued under this act or rule.

(2) If the bureau finds that the violation did not threaten the safety or health of a patient, caregiver or the general public and the violator took immediate action to remedy the violation upon learning of it, the bureau may issue a written warning in lieu of assessing a civil penalty.

(3) A person who aids, abets, counsels, induces, procures or causes another person to violate this act, a rule promulgated under this act or an order issued under this act or rule shall be subject to the civil penalties provided under this subsection.

(b) Sanctions. —

(1) In addition to the penalties provided in subsection (a) of this section, and any other penalty authorized by law, the bureau may impose the following sanctions:

(A) Revoke or suspend the permit of a person found to be in violation of this act, a rule promulgated under this act or an order issued under this act or rule.

(B) Revoke or suspend the permit of a person for conduct or activity or the occurrence of an event that would have disqualified the person from receiving the permit.

(C) Revoke or suspend the registration of a practitioner for a violation of this act or a rule promulgated or an order issued under this act or for conduct or activity which would have disqualified the practitioner from receiving a registration.

(D) Suspend a permit or registration of a person pending the outcome of a hearing in a case in which the permit or registration could be revoked.
(E) Order restitution of funds or property unlawfully obtained or retained by a permittee or registrant.

(F) Issue a cease and desist order.

(2) A person who aids, abets, counsels, induces, procures or causes another person to violate this act shall be subject to the sanctions provided under this subsection.

(c) Costs of action. — The bureau may assess against a person determined to be in violation of this act the costs of investigation of the violation.

(d) Minor violations. — Nothing in this section shall be construed to require the assessment of a civil penalty or the imposition of a sanction for a minor violation of this act if the bureau determines that the public interest will be adequately served under the circumstances by the issuance of a written warning.

§16A-12-9. Other restrictions.

This act does not permit any person to engage in and does not prevent the imposition of any civil, criminal or other penalty for the following:

(1) Undertaking any task under the influence of medical cannabis when doing so would constitute negligence, professional malpractice or professional misconduct.

(2) Possessing or using medical cannabis in a state correctional facility or Regional Jail Authority facility, including a facility owned or operated or under contract with the Bureau of Corrections or the Regional Jail Authority, which houses inmates serving a portion of their sentences on parole or other community correction program.

(3) Possessing or using medical cannabis in a youth detention center or other facility which houses children adjudicated delinquent, including the separate, secure state-
17 owned facility or unit utilized for sexually violent
18 delinquent children.

ARTICLE 13. RESEARCH PROGRAM.

§16A-13-1. Definitions.

The following words and phrases when used in this
chapter shall have the meanings given to them in this section
unless the context clearly indicates otherwise:

(1) “Health care medical cannabis organization”. A
vertically integrated health system approved by the bureau
to dispense medical cannabis or grow and process medical
 cannabis, or both, in accordance with a research study under
this chapter.

(2) “Vertically integrated health system”. A health
delivery system in which the complete spectrum of care,
including primary and specialty care, hospitalization and
pharmaceutical care, is provided within a single
organization.

§16A-13-2. Establishment of medical cannabis research
program.

(a) Program to be established. — The bureau shall
establish and develop a research program to study the
impact of medical cannabis on the treatment and symptom
management of serious medical conditions. The program
shall not include a clinical registrant or academic clinical
research center under article fourteen of this chapter.

(b) Bureau duties. — The bureau shall:

(1) Review all serious medical conditions which are
cited by a practitioner upon the practitioner’s certification
that a patient be granted an identification card.

(2) Create a database of all serious medical conditions,
including comorbidities, which are cited by practitioners in
the certifications of patients. The database shall also include
the form of medical cannabis certified to treat each serious medical condition.

(3) When the database contains twenty-five or more patients with the same serious medical condition, petition the United States Food and Drug Administration and the United States Drug Enforcement Administration for approval to study the condition and the impact of medical cannabis on the condition.

(4) Concurrent with the request to the United States Food and Drug Administration and United States Drug Enforcement Administration, publicly announce the formation of a research study to which a vertically integrated health system and a university within this state may submit a request to participate.

(5) Upon approval of a research study by the United States Food and Drug Administration and the United States Drug Enforcement Administration, select a vertically integrated health system or systems to conduct the research study and designate the form or forms of medical cannabis which will be used to treat the serious medical condition.

(6) Notify a patient who has been issued an identification card:

(A) that the patient has been selected to participate, at the patient’s option, in a research study to study medical cannabis as a treatment; and

(B) where the patient may secure medical cannabis through a health care medical cannabis organization at no cost to the patient in accordance with subsection (c).

(7) If the United States Food and Drug Administration and the United States Drug Enforcement Administration reject the proposal for the research study, take all reasonable steps to collect and collate data on the serious medical condition and the use of medical cannabis as a treatment for the serious medical condition and consider submitting an
additional request to the United States Food and Drug Administration and United States Drug Enforcement Administration for a research study on the same condition.

(c) Costs. — The cost of the medical cannabis which is dispensed to patients in accordance with an approved research study shall be paid for by the fund.

(d) Geographic accessibility. — The bureau shall take into consideration the geographic location of the health care medical cannabis organization when assigning a patient to a health care medical cannabis organization. The bureau shall make an effort to assign a patient to a health care medical cannabis organization that is located within fifty miles of the patient’s residence.

(e) Data. — Data collected by the health care medical cannabis organization shall be provided to the university participating in the research study for analysis.

§16A-13-3. Medical cannabis research program administration.

(a) The bureau may establish a research study for each serious medical condition. The bureau may engage universities within this state to participate in the collection, collation, analysis and conclusive findings of the research studies. The bureau shall, by rule, establish the procedure to be used by health care medical cannabis organizations with respect to:

(1) Real time inventory tracking.

(2) Real time tracking of the medical cannabis dispensed.

(3) Recall of defective medical cannabis.

(b) Request for distributions. — The bureau shall establish a form and procedure for universities selected to participate in a research study to request distributions from
the fund to conduct research on medical cannabis, including administrative costs. These distributions shall also be used to pay for the cost of the medical cannabis so that it is not borne by the patient participating in the research study. The forms shall include, at a minimum, the following:

(1) The form or forms of medical cannabis to be studied.

(2) The serious medical condition to be studied.

(c) Research reports. —

(1) A vertically integrated health system shall report on the effectiveness of the use of medical cannabis for the treatment of the serious medical condition studied and all counterindications and noted side effects.

(2) The bureau shall notify the vertically integrated health system and the university participating in the research study of the data which is required to meet the United States Food and Drug Administration’s and the United States Drug Enforcement Administration’s approval for the research study.

(3) The first report, including the data required under subdivision (2), shall be submitted to the bureau and made publicly available within one hundred eighty days of the initiation of a research study for a specific serious medical condition.

(4) An annual report of the data required under subdivision (2) shall be submitted to the bureau beginning one year after the initiation of a research study for a specific serious medical condition and each year thereafter.


A vertically integrated health system located in this state may petition the bureau to participate in a research study to study a serious medical condition. Approval of the vertically
integrated health system as a health care medical cannabis organization by the bureau shall authorize access within a region under subsection (d), section three, article six of this chapter to medical cannabis for all patients included in an approved research study.

§16A-13-5. Requirements.

(a) Dispensing. — A health care medical cannabis organization that dispenses medical cannabis shall:

1. Maintain licensure with the bureau.

2. Secure the medical cannabis within the associated pharmacies of the health care medical cannabis organization in a manner and method prescribed by the bureau.

3. Keep a daily log of the medical cannabis dispensed and the research study with which the patient and the medical cannabis are associated. Reports shall be delivered to the bureau and the university participating in the research study on a weekly basis.

4. Report the utilization rates of those patients participating in the research of medical cannabis and treatment options.

5. Only dispense medical cannabis received from a grower, processor or a health care medical cannabis organization that is approved to grow and process medical cannabis.

6. Provide all patients or caregivers with the safety insert, prepared by the bureau, which includes potential dangers, recognition and correction of problematic dosage and any other information required by the bureau or which the bureau deems relevant for patient safety.

(b) Growing and processing. — A health care medical cannabis organization that grows and processes medical cannabis shall:
(1) Maintain licensure with the bureau.

(2) Only make available medical cannabis to health care medical cannabis organizations that dispense medical cannabis.

(3) Keep a daily log of medical cannabis intended for ultimate use by patients participating in a research study.


A health care medical cannabis organization may not participate in a research study of any kind, including the program established under this article, or dispense or grow and process medical cannabis if it has violated its licensure requirements or conditions.


The bureau shall, by rule, establish the procedure to be used by a health care medical cannabis organization that grows and processes medical cannabis with respect to:

(1) Real time inventory tracking, including a seed-to-dispensing tracking system that tracks medical cannabis from seed or immature plant stage until the medical cannabis is provided to a patient in a research study.

(2) Security, recordkeeping, record retention and surveillance systems relating to every stage of growing and processing medical cannabis.

(3) A daily log of each day’s beginning inventory, acquisitions, disbursements, disposals and ending inventory.

(4) A system to recall defective medical cannabis.

(5) A system to track the plant waste resulting from the growth of medical cannabis.
(6) Testing of medical cannabis by an independent laboratory to test the medical cannabis produced by the health care medical cannabis organization, including requiring a test at harvest and a test at final processing.

(7) Any other procedure deemed necessary by the bureau.


Nothing in this chapter shall be construed to create an entitlement or right of a patient to receive medical cannabis or to participate in a research study.

ARTICLE 14. ACADEMIC CLINICAL RESEARCH CENTERS.

§16A-14-1. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) “Academic clinical research center” means an accredited medical school within this state that operates or partners with an acute care hospital licensed within this state.

(2) “Clinical registrant” means an entity that:

(A) Holds a permit as a grower, processor and a dispensary; and

(B) Has a contractual relationship with an academic clinical research center under which the academic clinical research center or its affiliate provides advice to the entity, regarding, among other areas, patient health and safety, medical applications and dispensing and management of controlled substances.


Notwithstanding the limitations in section thirteen, article six of this chapter, the bureau may register up to four clinical registrants, and subject to the following:
(1) A clinical registrant must pay the fees and meet all other requirements under this act for obtaining a permit as a grower, processor and a dispensary.

(2) The clinical registrant must comply with all other requirements of this act regarding growing, processing and dispensing medical cannabis.

§16A-14-3. Research study.

Notwithstanding any provision of this act to the contrary, the bureau may, upon application, approve the dispensing of medical cannabis by a clinical registrant to the academic clinical research center for the purpose of conducting a research study. The bureau shall develop the application and standards for approval of such dispensing by the clinical registrant. The following apply to the research study:

(1) The clinical registrant shall disclose the following information to the bureau in its application:

(i) The reason for the research project, including the reason for the trial.

(ii) The strain of medical cannabis to be used and the strength of the medical cannabis to be used in the research study.

(iii) The anticipated duration of the study.

(iv) Evidence of approval of the trial by an accredited institutional review board, including any other required regulatory approvals.

(v) Other information required by the bureau, except that the bureau may not require disclosure of any information that would infringe upon the academic clinical research center’s exclusive right to intellectual property or legal obligations for patient confidentiality.
(2) The academic clinical research center shall provide its findings to the bureau within three hundred sixty-five days of the conclusion of the research study or within three hundred sixty-five days of publication of the results of the research study in a peer-reviewed medical journal, whichever is later.

(3) The bureau shall allow the exchange of medical cannabis seed between clinical registrants for the conduct of research.

ARTICLE 15. MISCELLANEOUS PROVISIONS.


The growth, processing, manufacture, acquisition, transportation, sale, dispensing, distribution, possession and consumption of medical cannabis permitted under this act shall not be deemed to be a violation of the provisions of the Uniform Controlled Substance Act under chapter sixty-a of this code. If a provision of Uniform Controlled Substance Act under chapter sixty-a relating to cannabis conflicts with a provision of this act, this act shall take precedence.


(a) Financial interests. — A public official, or an immediate family member thereof, shall not intentionally or knowingly hold a financial interest in a medical cannabis organization or in a holding company, affiliate, intermediary or subsidiary thereof, while the individual is a public official and for one year following termination of the individual’s status as a public official.

(b) Employment. — No public official, or an immediate family member thereof, shall be employed by a medical cannabis organization or by any holding company, affiliate, intermediary or subsidiary thereof, while the individual is a public official and for one year following termination of the individual’s status as a public official.
(c) For purposes of this section, “public official” and “immediate family” shall have the same definitions as those phrases are defined in section three, article one, chapter six-b of this code.


Nothing in this act shall be construed to require an insurer or a health plan, whether paid for by state funds or private funds, to provide coverage for medical cannabis.


(a) Licensure. — None of the following shall be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a state licensing board or commission, solely for lawful use of medical cannabis or manufacture or sale or dispensing of medical cannabis, or for any other action taken in accordance with this act:

1. A patient.
2. A caregiver.
3. A practitioner.
4. A medical cannabis organization.
5. A health care medical cannabis organization or university participating in a research study under article thirteen of this chapter.
6. A clinical registrant or academic clinical research center under article fourteen of this chapter.
7. An employee, principal or financial backer of a medical cannabis organization.
8. An employee of a health care medical cannabis organization or an employee of a university participating in a research study under article thirteen of this chapter.
(9) An employee of a clinical registrant or an employee of an academic clinical research center under article fourteen of this chapter.

(b) Employment. —

(1) No employer may discharge, threaten, refuse to hire or otherwise discriminate or retaliate against an employee regarding an employee’s compensation, terms, conditions, location or privileges solely on the basis of such employee’s status as an individual who is certified to use medical cannabis.

(2) Nothing in this act shall require an employer to make any accommodation of the use of medical cannabis on the property or premises of any place of employment. This act shall in no way limit an employer’s ability to discipline an employee for being under the influence of medical cannabis in the workplace or for working while under the influence of medical cannabis when the employee’s conduct falls below the standard of care normally accepted for that position.

(3) Nothing in this act shall require an employer to commit any act that would put the employer or any person acting on its behalf in violation of federal law.


The Department of Education shall promulgate rules within six months of the effective date of this section regarding the following:

(1) Possession and use of medical cannabis by a student on the grounds of a preschool, primary school and a secondary school.

(2) Possession and use of medical cannabis by an employee of a preschool, primary school and a secondary school on the grounds of such school.

1 The Bureau shall promulgate rules within six months of
the effective date of this section regarding the following:

3 (1) Possession and use of medical cannabis by a child
under the care of a child-care or social service center
licensed or operated by the Department of Health and
Human Resources.

7 (2) Possession and use of medical cannabis by an
employee of a child-care or social service center licensed or
operated by the Department of Health and Human Resources.

10 (3) Possession and use of medical cannabis by
employees of a youth development center or other facility
which houses children adjudicated delinquent.


1 The following apply:

3 (1) A grower/processor shall meet the same municipal
zoning and land use requirements as other manufacturing,
processing and production facilities that are located in the
same zoning district.

6 (2) A dispensary shall meet the same municipal zoning
and land use requirements as other commercial facilities
that are located in the same zoning district.

9 (3) A municipality may enact an ordinance prohibiting
or limiting the number and type of medical cannabis
organizations permitted to operate in the municipality,
including the time, place, and manner of operation.


1 (a) A municipality that enacts a restrictive ordinance
pursuant to section seven of this article, shall promptly
notify the bureau of such action.

4 (b) A county commission shall notify the bureau if a
county votes to prohibit allowance of a medical cannabis
organization pursuant to section six, article seven of this chapter.


The issuance of permits and other authorizations shall begin upon publication of a notice by the bureau in the State Register that adequate emergency or permanent rules have been adopted to initiate the program under this act.

ARTICLE 16. EFFECTIVE DATE.

§16A-16-1. Effective date.

(a) Unless excepted in subsection (b) or (c), the provisions of this act shall be effective upon passage.

(b) The provisions of article twelve of this chapter, and any other criminal provisions or penalties contained in this act, shall not be effective until ninety days from passage of Senate Bill 386 during the 2017 regular session.

(c) Notwithstanding any provision of this chapter to the contrary, no identification cards may be issued to patients until July 1, 2019. The Bureau may take sufficient steps through rule to implement the preliminary provisions in preparation for implementation of the provisions of this act.

CHAPTER 196

(Com. Sub. for S. B. 187 - By Senators Takubo, Facemire, Jeffries and Woelfel)

[Passed April 7, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 25, 2017.]

AN ACT to amend and reenact §27-3-1 of the Code of West Virginia, 1931, as amended, relating generally to confidentiality of medical records for patients’ physical, mental or emotional conditions generally; eliminating disclosure exception for
treatment or internal review purposes; eliminating 30-day requirement; eliminating requirement that provider make good faith effort to obtain consent from the patient or legal representative; eliminating requirement that the minimum information necessary is released for a specifically stated purpose; eliminating requirement that prompt notice of the disclosure, the recipient of the information and the purpose of the disclosure is given to the patient or legal representative; adopting provisions of federal law which pertain to disclosure of protected health information; and providing for disclosure upon execution of a duly executed release in compliance with the Health Insurance Portability and Accountability Act of 1996.

Be it enacted by the Legislature of West Virginia:

That §27-3-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. CONFIDENTIALITY.

*§27-3-1. Definition of confidential information; disclosure.

(a) Communications and information obtained in the course of treatment or evaluation of any client or patient are confidential information. Such confidential information includes the fact that a person is or has been a client or patient, information transmitted by a patient or client or family thereof for purposes relating to diagnosis or treatment, information transmitted by persons participating in the accomplishment of the objectives of diagnosis or treatment, all diagnoses or opinions formed regarding a client’s or patient’s physical, mental or emotional condition, any advice, instructions or prescriptions issued in the course of diagnosis or treatment, and any record or characterization of the matters hereinbefore described. It does not include information which does not identify a client or patient, information from which a person acquainted with a client or patient would not recognize such client or patient and uncoded information from which there is no possible means to identify a client or patient.

*NOTE: This section was also amended by H. B. 2674 (Chapter 64), which passed subsequent to this act.
(b) Confidential information shall not be disclosed, except:

(1) In a proceeding under section four, article five of this chapter to disclose the results of an involuntary examination made pursuant to section two, three or four of said article;

(2) In a proceeding under article six-a of this chapter to disclose the results of an involuntary examination made pursuant thereto;

(3) Pursuant to an order of any court based upon a finding that the information is sufficiently relevant to a proceeding before the court to outweigh the importance of maintaining the confidentiality established by this section;

(4) To provide notice to the federal National Instant Criminal Background Check System, established pursuant to section 103(d) of the Brady Handgun Violence Prevention Act, 18 U. S. C. §922, in accordance with article seven-a, chapter sixty-one of this code;

(5) To protect against a clear and substantial danger of imminent injury by a patient or client to himself, herself or another;

(6) Pursuant to and as provided for under the federal privacy rule of the Health Insurance Portability and Accountability Act of 1996 in 45 CFR §164.506; and

(7) Pursuant to and as provided for under the federal privacy rule of the Health Insurance Portability and Accountability Act of 1996 in 45 CFR §164.512: Provided, that disclosures made pursuant to 45 CFR §164.512(e) comply with subdivision (3) of this subsection.

(8) Upon execution of a duly executed release in compliance with the Health Insurance Portability and Accountability Act of 1996.
CHAPTER 197

(Com. Sub. for S. B. 398 - By Senators Takubo, Stollings, Unger and Maroney)

[Passed April 5, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 18, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-30-1, §29-30-2, §29-30-3, §29-30-4, §29-30-5, §29-30-6, §29-30-7, §29-30-8, §29-30-9, §29-30-10 and §29-30-11, all relating to creating the Emergency Volunteer Health Practitioners Act; defining terms; providing for applicability of the article; regulating the practice of volunteer health practitioners during an emergency; creating a registration system; permitting volunteer health practitioners who are registered with a registration system and licensed and in good standing in the state upon which the practitioner’s registration is based to practice in this state to the extent authorized by the article as if the practitioner were licensed in this state while an emergency declaration is in effect; providing that the provisions of this article do not affect credentialing or privileging standards of a health facility and do not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect; providing for sanctions; providing for relation to other laws; providing for limitation of liability; and providing for rulemaking by the Secretary of the Department of Health and Human Resources.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §29-30-1, §29-30-2, §29-30-3, §29-30-4, §29-30-5, §29-30-6, §29-30-7,
§29-30-8, §29-30-9, §29-30-10 and §29-30-11, all to read as follows:

ARTICLE 30. EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT.

§29-30-1. Short title.

1  This article shall be cited as the Emergency Volunteer Health Practitioners Act.

§29-30-2. Definitions.

1  The following words have the following meaning:

2  (a) “Credentialing” means obtaining, verifying and assessing the qualifications of a health practitioner to provide treatment, care or services in or for a health facility.

3  (b) “Disaster relief organization” means an entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and that:

4    (1) Is designated or recognized as a provider of those services pursuant to a disaster response and recovery plan adopted by an agency of the federal government or by the Governor of this state; or

5    (2) Regularly plans and conducts its activities in coordination with an agency of the federal government or any agency designated by the Governor.

6  (c) “Emergency” means an event or condition that is an emergency, disaster or public health emergency pursuant to a declaration of the Governor or any agency designated by the Governor.

7  (d) “Emergency declaration” means a declaration of emergency issued by the Governor or his or her designee pursuant to the laws of this state.
(e) “Emergency Management Assistance Compact” means the interstate compact approved by Congress by Public Law No. 104-321, 110 Stat. 3877.

(f) “Entity” means a person other than an individual.

(g) “Health facility” means an entity licensed pursuant to the laws of this or another state to provide health or veterinary services.

(h) “Health practitioner” means an individual licensed pursuant to the laws of this or another state to provide health or veterinary services. For the purposes of this article, a health practitioner includes a physician, a physician assistant, a dentist, a dental hygienist, a pharmacist, a pharmacy technician, a pharmacy intern, a registered professional nurse, a licensed practical nurse, an optometrist, an osteopathic physician, a chiropractor, a physical therapist, a psychologist, an occupational therapist and a veterinarian.

(i) “Health services” means the provision of treatment, care, advice or guidance, or other services or supplies, related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:

1. The following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:
   
   A. Preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care; and
   
   B. Counseling, assessment, procedures or other services;

2. Sale or dispensing of a drug, a device, equipment or another item to an individual in accordance with a prescription; and
(3) Funeral, cremation, cemetery or other mortuary services.

(j) “Host entity” means an entity operating in this state which uses volunteer health practitioners to respond to an emergency.

(k) “License” means authorization and licensing by an appropriate licensing board to engage in health or veterinary services that are unlawful without the license. The term includes authorization pursuant to the laws of this state to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity.

(l) “Person” means an individual, corporation, business trust, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

(m) “Privileging” means the authorizing by an appropriate authority, such as a governing body, of a health practitioner to provide specific treatment, care or services at a health facility subject to limits based on factors that include license, education, training, experience, competence, health status and specialized skill.

(n) “Scope of practice” means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner’s services is rendered, including any conditions imposed by the licensing authority.

(o) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(p) “Veterinary services” means the provision of treatment, care, advice or guidance or other services or
supplies related to the health or death of an animal or to animal populations, to the extent necessary to respond to an emergency, including:

(1) Diagnosis, treatment or prevention of an animal disease, injury or other physical or mental condition by the prescription, administration or dispensing of a vaccine, medicine, surgery or therapy;

(2) Use of a procedure for reproductive management; and

(3) Monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans.

“Volunteer health practitioner” means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services. The term does not include a practitioner who receives compensation pursuant to a preexisting employment relationship with a host entity or affiliate which requires the practitioner to provide health services in this state, unless the practitioner is not a resident of this state and is employed by a disaster relief organization providing services in this state while an emergency declaration is in effect.

§29-30-3. Applicability.

This article applies to volunteer health practitioners registered with a registration system pursuant to section five of this article and who provide health or veterinary services in this state for a host entity while an emergency declaration is in effect.

§29-30-4. Regulation during an emergency.

(a) While an emergency declaration is in effect, the Governor or his or her designee may limit, restrict or otherwise regulate:
(1) The duration of practice by volunteer health practitioners;

(2) The geographical areas in which volunteer health practitioners may practice;

(3) The types of volunteer health practitioners who may practice; and

(4) Any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

(b) An order issued pursuant to this section may take effect immediately.

(c) A host entity that uses volunteer health practitioners to provide health or veterinary services in this state shall:

(1) Consult and coordinate its activities with the Governor or his or her designee to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and

(2) Comply with any laws of this state relating to the management of emergency health or veterinary services.

§29-30-5. Volunteer health practitioner registration system.

(a) To qualify as a volunteer health practitioner registration system, a system must:

(1) Accept applications for the registration of volunteer health practitioners before or during an emergency;

(2) Include information about the licensure and good standing of health practitioners which is accessible by authorized persons;

(3) Be capable of confirming the accuracy of information concerning whether a health practitioner is
(4) Meet one of the following conditions:

(A) Be an emergency system for advance registration of volunteer health care practitioners established by a state and funded through the Department of Health and Human Services pursuant to Section 319I of the Public Health Services Act, 42 U. S. C. Section 247d-7b, as amended;

(B) Be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed pursuant to Section 2801 of the Public Health Services Act, 42 U.S.C. Section 300hh as amended;

(C) Be operated by a:

(i) Disaster relief organization;

(ii) Licensing board;

(iii) National or regional association of licensing boards or health practitioners;

(iv) Health facility that provides comprehensive inpatient and outpatient health care services, including a tertiary care and teaching hospital; or

(v) Governmental entity; or

(D) Be designated by the Governor or his or her designee as a registration system for purposes of this article.

(b) While an emergency declaration is in effect, the Governor or his or her designee or a host entity, may confirm whether volunteer health practitioners utilized in this state are registered with a registration system that complies with this article. Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.
(c) Upon request of a person in this state authorized pursuant to this article, or a similarly authorized person in another state, a registration system located in this state shall notify the person of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.

(d) A host entity is not required to use the services of a volunteer health practitioner even if the practitioner is registered with a registration system that indicates that the practitioner is licensed and in good standing.

§29-30-6. Recognition of volunteer health practitioners licensed in other states.

(a) While an emergency declaration is in effect, a volunteer health practitioner, registered with a registration system pursuant to this article and licensed and in good standing in the state upon which the practitioner’s registration is based, may practice in this state to the extent authorized by this article as if the practitioner were licensed in this state.

(b) A volunteer health practitioner qualified pursuant to this article is not entitled to the protections of this article if the practitioner is licensed in more than one state and any license of the practitioner is suspended, revoked or subject to an agency order limiting or restricting practice privileges, or has been voluntarily terminated under threat of sanction.

§29-30-7. Credentialing and privileging.

The provisions of this article do not affect credentialing or privileging standards of a health facility and does not preclude a health facility from waiving or modifying those standards while an emergency declaration is in effect.


(a) Subject to subsections (b) and (c) of this section, a volunteer health practitioner shall adhere to the scope of
practice for a similarly licensed practitioner established by the licensing provisions, practice acts or other laws of this state.

(b) Except as otherwise provided in subsection (c) of this section, this section does not authorize a volunteer health practitioner to provide services that are outside the practitioner’s scope of practice, even if a similarly licensed practitioner in this state would be permitted to provide the services.

(c) The State Health Officer at the West Virginia Department of Health and Human Resources may modify or restrict the health or veterinary services that volunteer health practitioners may provide pursuant to this article. An order issued pursuant to this section takes effect immediately.

(d) A host entity may restrict the health or veterinary services that a volunteer health practitioner may provide pursuant to this article.

(e) A volunteer health practitioner does not engage in unauthorized practice unless the practitioner has reason to know of any limitation, modification or restriction under this section or that a similarly licensed practitioner in this state would not be permitted to provide the services. A volunteer health practitioner has reason to know of a limitation, modification or restriction or that a similarly licensed practitioner in this state would not be permitted to provide a service if:

(1) The practitioner knows the limitation, modification or restriction exists or that a similarly licensed practitioner in this state would not be permitted to provide the service; or

(2) From all the facts and circumstances known to the practitioner at the relevant time, a reasonable person would conclude that the limitation, modification or restriction
exists or that a similarly licensed practitioner in this state
would not be permitted to provide the service.

(f) In addition to the authority granted by law of this
state other than this to regulate the conduct of health
practitioners, a licensing board or other disciplinary
authority in this state:

(1) May impose administrative sanctions upon a health
practitioner licensed in this state for conduct outside of this
state in response to an out-of-state emergency;

(2) May impose administrative sanctions upon a
practitioner not licensed in this state for conduct in this state
in response to an in-state emergency; and

(3) Shall report any administrative sanctions imposed
upon a practitioner licensed in another state to the
appropriate licensing board or other disciplinary authority
in any other state in which the practitioner is known to be
licensed.

(g) In determining whether to impose administrative
sanctions under subsection (f) of this section, a licensing
board or other disciplinary authority shall consider the
circumstances in which the conduct took place, including
any exigent circumstances, and the practitioner’s scope of
practice, education, training, experience and specialized
skill.

§29-30-9. Relation to other laws.

(a) Nothing contained in this article limits rights,
privileges or immunities provided to volunteer health
practitioners by laws other than this article. Except as
otherwise provided in subsection (b) of this section, this
article does not affect requirements for the use of health
practitioners pursuant to the Emergency Management
Assistance Compact.
(b) The West Virginia Department of Health and Human Resources, pursuant to the Emergency Management Assistance Compact, may incorporate into the emergency forces of this state volunteer health practitioners who are not officers or employees of this state, a political subdivision of this state or a municipality or other local government within this state.

§29-30-10. Limitation of liability.

(a) Subject to subsection (b) of this section, a volunteer health practitioner who provides health or veterinary services pursuant to this article is not liable for damages for an act or omission of the practitioner in providing those services unless the act or omission is an intentional tort or is willful misconduct or wanton, grossly negligent, reckless or criminal conduct.

(b) This section does not limit the liability of a volunteer health practitioner for:

(1) Willful misconduct or wanton, grossly negligent, reckless or criminal conduct;

(2) An intentional tort;

(3) Breach of contract;

(4) A claim asserted by a host entity or by an entity located in this or another state which employs or uses the services of the practitioner; or

(5) An act or omission relating to the operation of a motor vehicle, vessel, aircraft or other vehicle.

(c) A person that operates, uses or relies upon information provided by a volunteer health practitioner registration system is not liable for damages for an act or omission relating to that operation, use or reliance unless the act or omission is an intentional tort or is willful misconduct or wanton, grossly negligent, reckless or criminal conduct.

1 The Secretary of the Department of Health and Human Resources may promulgate rules pursuant to article three, chapter twenty-nine-a of this code to implement the provisions of this article. These rules shall include measures to facilitate the receipt of benefits for injury or death pursuant to the workers’ compensation laws of this state by volunteer health practitioners who reside in other states.

CHAPTER 198

(Com. Sub. for H. B. 2792 - By Delegates Arvon, Hill, Walters and Martin)

[Passed April 6, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 14, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §10-1-23, relating to requiring the Library Commission to survey the libraries of the state; requiring the Library Commission develop a status report and ten-year plan for public libraries; requiring a report to the Governor and the Legislature; and posting the report electronically.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §10-1-23, to read as follows:

ARTICLE 1. PUBLIC LIBRARIES.

§10-1-23. Library Survey; status report; and ten-year plan.

1 (a) The Library Commission shall survey the libraries of the state, in consultation with each library, and other
interested parties, in order for the Library Commission to develop a status report on the conditions and needs of the libraries in this state, and to prepare a ten-year plan for construction and maintenance needs of public libraries: 

Provided, That the Library Commission may use information that it has already complied that it would otherwise be required to survey pursuant to this subsection. 

On or before November 30, 2017, the Library Commission shall conduct a survey of state libraries which shall include, at a minimum:

1. The annual maintenance and utility expenses of each library and satellite location for the past three years;
2. A status report regarding the condition of all plumbing, electrical, heating, air-conditioning and ventilation systems of each library and satellite location;
3. Estimated costs for maintenance upgrades or replacement of any plumbing, electrical, heating, air-conditioning and ventilation systems of each library and satellite location over the next ten years;
4. A report regarding compliance of the structure of each library and satellite location with the Americans with Disabilities Act, and any needs for improved access thereof;
5. A report on the technology capabilities of each library and satellite location, including, but not limited to, telephone and computer systems, telecommunication capabilities, availability of equipment to facilitate teleconferences or simulcasts, electronic media viewing capabilities, and any other technology-related information as the Library Commission deems appropriate, along with a breakdown stating whether such technology is available for public or library staff use;
6. A report on the available public meeting space at each library and satellite location, and the process by which the public may request the use of the meeting space, and the frequency of use of such meeting space; and
(7) A report on all materials available to the public at each library and satellite location, including, but not limited to, books and electronic media available for loan, reference materials on site, access to any online accounts provided by the library that enable research of scholarly or reference materials, and any other information as the Library Commission deems appropriate.

(b) On or before January 31, 2018, the Library Commission shall prepare a report on the status of the libraries in this state, to be submitted to the Governor and to the Joint Committee on Government and Finance. The Library Commission report shall include the conditions of the libraries in this state and a proposed ten-year maintenance and construction plan for the public libraries, which shall include at a minimum:

(1) The name and location of each library and satellite location in this state;

(2) The condition of the physical structure of each library and satellite location;

(3) A report on the three-year average cost of utilities and maintenance of each library and satellite location;

(4) A cost estimate for structural repairs at each library and satellite location, including improvements for access for people with disabilities;

(5) A cost estimate for upgrades or replacement of any plumbing, electrical, heating, air-conditioning and ventilation systems of each library and satellite location;

(6) A cost estimate for improvements to the technology capabilities and a description of those needs for each library and satellite location, including, but not limited to, improvements for telecommunication services, additional computer work stations for public access, technology needs for library staff, and other technology assessments as the Library Commission deems appropriate;
(7) A report regarding the meeting space available for public use at each library and satellite location, and the process by which the public may request the use of the meeting room; and

(8) Any other information the Library Commission deems appropriate to propose for the improvement of library facilities, lending materials and needs of the library system over the next ten years.

(c) The Library Commission shall post a digital copy of the report, as required by this section, on the Library Commission website to be made available to the public.

CHAPTER 199

(Com. Sub. for H. B. 2759 - By Delegates Ellington, Espinosa and Frich)

[Passed April 8, 2017; in effect from passage.]
[Approved by the Governor on April 25, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §5A-3-3a; to amend and reenact §5A-6-8 of said code; to amend and reenact §5A-10-6 of said code; and to amend said code by adding thereto a new article, designed §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7, §15-14-8, §15-14-9 and §15-14-10, all relating to creating Statewide Interoperable Radio Network; establishing short title; defining terms; establishing objectives and purpose; creating position of Statewide Interoperable Coordinator; prescribing duties for Statewide Interoperability Coordinator; creating Statewide Interoperability Executive Committee; prescribing duties for Statewide Interoperability Executive Committee; creating the Regional Interoperability Committee; prescribing duties for
Regional Interoperability Committee; providing for transfer of assets and staffing of Statewide Interoperable Radio Network from the Department of Health and Human Resources to the West Virginia Department of Homeland Security and Emergency Management with a certain exception; establishing special revenue account for Statewide Interoperable Radio Network designated as the Statewide Interoperable Radio Network Account; providing for deposit of revenues derived from the lease of property managed as part of the West Virginia Statewide Interoperable Radio Network into the Statewide Interoperable Radio Network Account; exempting Statewide Interoperable Radio Network from certain Purchasing Division and Office of Technology requirements; and authorizing emergency and legislative rulemaking.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5A-3-3a; that §5A-6-8 of said code be amended and reenacted; that §5A-10-6 of said code be amended and reenacted; and that said code be amended by adding thereto a new article, designated §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7, §15-14-8, §15-14-9 and §15-14-10, all to read as follows:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-3a. Additional exemptions from purchasing requirements.

1 The provisions of subdivision nine, section three, article three, chapter five-a do not apply to construction or repair contracts entered into by the state for the emergency construction or repair of the Statewide Interoperable Radio Network created by article fourteen, chapter fifteen of this code.
ARTICLE 6. OFFICE OF TECHNOLOGY.

§5A-6-8. Exemptions.

(a) The provisions of this article do not apply to the Legislature, the judiciary or any state Constitutional officer designated in section two, article seven, chapter six of this code.

(b) Notwithstanding any other provision of this article to the contrary, except for participation in the compilation and maintenance of an inventory of information technology and technical infrastructure of the state authorized by section four of this article, the provisions of this article do not apply to the West Virginia Board of Education, the West Virginia Department of Education, the county boards of education or the West Virginia Division of Homeland Security and Emergency Management relating to the technology used with the Statewide Interoperable Radio Network, created by article fourteen, chapter fifteen of this code. However, the West Virginia Board of Education, the West Virginia Department of Education and the county boards of education will attempt to cooperate and collaborate with the Chief Technology Officer to the extent feasible.

(c) The Governor may by executive order exempt from the provisions of this article any entity created and organized to facilitate the public and private use of health care information and the use of electronic medical records throughout the state.

ARTICLE 10. REAL ESTATE DIVISION.


(a) Notwithstanding any provision of law to the contrary, the executive director has sole authority to negotiate and enter into long-term lease agreements for lease of public lands to be used for placement of wireless
communication towers: Provided, That such long-term lease agreements may not be for periods in excess of thirty years: Provided, however, That for the governmental units named in subsection (d) of this section, any lease proposed by the executive director may only be entered into upon approval in writing of the ranking administrator of the respective governmental unit described in said subsection.

(b) All revenues derived from leases established upon the enactment of this section shall be deposited into the General Revenue Fund except as provided in subsections (c) and (d) of this section.

(c) Revenues from leases initiated prior to the enactment of this section or subsequently renewed shall continue to be treated as they were prior to the enactment of this section.

(d) Revenues derived from the lease of property under the control of the Department of Transportation shall be deposited into the State Road Fund. Revenues derived from the lease of property under the control of the Division of Natural Resources shall be retained by the Division of Natural Resources and deposited into the appropriate fund. Revenues derived from the lease of property under the control of the Department of Agriculture shall be deposited into the Agriculture Fees Fund. Revenues derived from the lease of property under the control of the Division of Forestry shall be deposited into the Division of Forestry Fund. Revenues derived from the lease of property under the control of institutions of higher education shall be deposited into the institution’s education and general capital fees fund. Revenues derived from the lease of property under the control of the Higher Education Policy Commission shall be deposited into the commission’s State Gifts Grants and Contracts Fund. Revenues derived from the lease of property under the control of the West Virginia Council for Community and Technical College Education shall be deposited into the council’s Tuition and Required Educational and General Fees Fund. Revenues derived from the lease of property, towers or tower space owned,
operated or controlled by the West Virginia Division of Homeland Security and Emergency Management or any other state agency managed as part of the West Virginia Statewide Interoperable Radio Network shall be deposited in the Statewide Interoperable Radio Network Account created in section nine, article fourteen, chapter fifteen of this code.

(e) Any long-term lease agreement entered into pursuant to this section shall contain provisions allowing for the nonexclusive use of the public lands and allowance for use of the same public space for additional towers by competing persons or corporations.

(f) The executive director is further authorized to enter into long-term lease agreements for additional wireless communication towers by other persons or corporations upon the same public lands in which there already exists a lease and tower provided for under this section.

(g) Any long-term lease agreement entered into pursuant to this section shall be recorded in the office of the county clerk where public land which is the subject of the lease agreement is located.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 14. THE STATEWIDE INTEROPERABLE RADIO NETWORK.

§15-14-1. Short title.

This article is known as and may be cited as the “Statewide Interoperable Radio Network Act”.


(a) “Director” means the Director of West Virginia Division of Homeland Security and Emergency Management.
(b) “Statewide Interoperable Radio Network” or “SIRN” means the interoperable communications network established for the purpose of implementing and maintaining an interoperable communications network for first responders to help assure the safety of all citizens in the event of disaster or emergency.

(c) “Statewide Interoperability Coordinator” or “SWIC” means the individual appointed by the Director to oversee the state’s interoperable communications efforts in planning and coordinating the SIRN.

(d) “Statewide Interoperability Executive Committee” or “Executive Committee” means the governing body of the SIRN.

(e) “WVDHSEM” means the West Virginia Division of Homeland Security and Emergency Management.

(f) “Regional Interoperability Committee” means the committee or committees that assist the SWIC and the Executive Committee with governing and monitoring the implementation and operation of the SIRN and establishing goals for the betterment of the SIRN.

§15-14-3. Purpose and objectives.

(a) One of the most important and profound duties of the State of West Virginia is to provide for the safety and security of her citizens. The state must constantly be prepared to immediately respond to any homeland security threat or event and all disasters, natural or man-made. With any Homeland Security threat or event, and all disasters, natural or man-made, the state must be able to instantly and effectively communicate in order to collaborate with various entities which are geographically dispersed.

(b) The purpose of this article is to ensure the most effective communication in the provision of emergency services, to assure an immediate and coordinated response
§15-14-4. Appointment of the Statewide Interoperability Coordinator.

(a) On or before July 1, 2017, the director shall appoint the Statewide Interoperability Coordinator from a recommendation of the Statewide Interoperability Executive Committee (SIEC), who shall be employed by and report to the director. The coordinator shall have at a minimum five years’ experience in overseeing and managing major communications systems and supervising employees.

(b) The coordinator shall oversee the state’s interoperable communications efforts in planning and coordinating a statewide interoperable radio network that serves the state’s first responders and other users of the network.

(c) The coordinator shall provide recommendations to the director to determine statewide priorities related to interoperable communications and shall work with all agencies to ensure the greatest input to the plans.

(d) The coordinator shall ensure all interoperable communications funds and functions of this state are coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies, of other states and localities and of private agencies of every type, so that the most effective preparation and use may be made of the nation’s and this state’s communications resources and facilities for dealing with any disaster or emergency that may occur.

(e) The coordinator will provide the Statewide Interoperable Radio Network approved compatibility equipment list to any state spending unit or state agency, including purchases on behalf of state agencies, county and local first responder agencies for purchases of two-way
radio, microwave or satellite equipment and related
services, or purchases that utilize state or federal funds
distributed to local entities by the State of West Virginia.
The purchase of any equipment not on the approved
compatibility list must receive prior approval from the
coordinator.

(f) The coordinator is the point of contact for any public
or private entity or individual seeking information about the
Radio Network;

(g) Prior to any state agency proceeding with a major
communications project, an agency shall submit to the
coordinator a project proposal, outlining the need for the
project, the proposed technology solution, if known, and an
explanation of how the project will support the agency’s
objective and the state’s strategic interoperable
communications plan.

(h) The coordinator shall perform any other duties as
may be prescribed by the director.

(i) If a vacancy exists in this position, the director shall
appoint someone to act in this capacity until the Executive
Committee makes its recommendations and the director
appoints a replacement.

§15-14-5. The Statewide Interoperability Executive
Committee.

(a) The Statewide Interoperability Executive
Committee shall consist of the following members or their
designee:

(1) The Director of the WVDHSEM;

(2) The Superintendent of the West Virginia State
Police;

(3) The President of the West Virginia Emergency
Management Council;
(4) The Adjutant General of the West Virginia National Guard;
(5) The West Virginia Chief Technology Officer;
(6) The President of the West Virginia Enhanced 911 Council;
(7) The President of the West Virginia Sheriffs’ Association;
(8) The West Virginia State Fire Marshal;
(9) The President of the West Virginia County Commissioners’ Association;
(10) The President of the West Virginia Municipal League;
(11) The Secretary of the Department of Transportation;
(12) The Director of the West Virginia Department of Health and Human Resources, Office of Emergency Medical Services;
(13) One representative from each of the agencies which own one of the SIRN’s zoned master site switches not otherwise represented;
(14) The chairman of each of the Regional Interoperability Committees;
(15) A representative of the West Virginia Chapter of the Association of Public Safety Communications Officials;
(16) The Director of the West Virginia Parkways Authority; and
(17) The Statewide Interoperability Coordinator who shall serve in a nonvoting Ex officio capacity.
36 (b) The director shall serve as the chairman of the Executive Committee.

38 (c) Members of the Executive Committee shall serve without compensation. However, each member of the Executive Committee may receive reimbursement from the Statewide Interoperable Radio Network Account, for actual expenses, including travel expenses, in accordance with state travel guidelines.

44 (d) The Executive Committee may appoint, as nonvoting members, individuals with technical expertise that may assist with its mission.

§15-14-6. Duties of the Statewide Interoperability Executive Committee.

1 The Executive Committee shall:

2 (1) Monitor the implementation and operation of the SIRN;

4 (2) Establish goals and guidance for the betterment of the SIRN;

6 (3) Review and approve all requests for use of the SIRN and its equipment, by a public or private entity;

8 (4) Serve as the mechanism for developing, updating and implementing policies, procedures and guidelines related to the SIRN;

11 (5) Identify new technologies and develop technologies and standards for the SIRN;

13 (6) Enhance the coordination of all available resources for public safety communications interoperability;

15 (7) Investigate all matters relating to integrity, foresight in funding and operations and planning for the SIRN.
§15-14-7. Maintenance and Operations of the Statewide Interoperable Network; personnel; assets; agreements.

(a) The director may employ such technical, clerical, legal counsel, stenographic and other personnel, fix their compensation and make expenditures within the appropriation to the agency or from other funds made available for the purpose of providing interoperable communications services to carry out the purpose of this article.

(b) All equipment, structures, property, and personnel along with their equipment and vehicles, owned, managed, directed, controlled, and governed by the Department of Health and Human Resources associated with the statewide interoperable radio and/or microwave network and medical command radio system, are transferred to, incorporated in and administered as a part of the WVDHSEM: Provided, That medical command radio system communication equipment, not including the microwave and SIRN equipment, and personnel located in the medical coordination center at Flatwoods, West Virginia shall continue to be managed, directed, controlled, and governed by the Department of Health and Human Resources and are not included in the transfer authorized by this subsection.

(c) The director may acquire in the name of the state by purchase, lease or gift, real property and rights or easements necessary or convenient to construct thereon the necessary building or buildings for housing Radio Network employees, equipment or infrastructure.

(d) The director or his or her designee may enter into cooperative agreements, land and tower leases, memorandums of understanding/agreement, training contracts or service contracts with political subdivisions of the state, other states, federal agencies, and with public or private agencies for use by the radio network.
(e) The WVDHSEM is exempt from the requirements and associated fees of any local ordinances of any political subdivision of the state relating to the construction of towers or other infrastructure for use by the Radio Network to enhance interoperable communications.

(f) The WVDHSEM shall support a unified approach to interoperable communications across state, county, and municipal government, to include:

1. Providing ongoing assistance and support to the state’s Medical Command System; and
2. Providing ongoing assistance and support to state agencies in the development of interoperable and emergency communications plans or projects.

§15-14-8. The Regional Interoperability Committees; composition; duties.

(a) The Regional Interoperability Committees shall operate in each of the defined state homeland security regions.

(b) Each Regional Interoperability Committee consists of no more than one representative from each identified discipline within each region, and includes, is not limited to, the following agencies, as well as those deemed necessary by the SWIC, Regional Interoperability Committee, or Executive Committee to ensure public safety:

1. Municipal, county or regional hospitals;
2. Municipal, county or state law enforcement;
3. Municipal, county or private transit;
4. Civil Air Patrol;
5. County Enhanced 911;
6. Emergency medical services;
(7) Federal law enforcement;
(8) Federal government (non-law enforcement);
(9) Municipal or county fire service;
(10) Municipal or county health department;
(11) Higher education public safety;
(12) Municipal or county Homeland Security/Emergency Management;
(13) Private industry-critical infrastructure and key resources;
(14) Regional response team;
(15) Radio Amateur Civil Emergency Services (RACES) or Amateur Radio Emergency Service (ARES);
(16) American Red Cross;
(17) Non-first responder state agencies;
(18) Volunteer search and rescue organizations;
(19) County Commissioners’ Association of West Virginia; and
(20) West Virginia Municipal League.

(c) The Regional Interoperability Committees shall:

(1) Assist the SWIC and the Executive Committee with governing and monitoring the implementation and operation of the SIRN and establishing goals for the betterment of the SIRN; and

(2) Serve as the mechanism for providing local level input to the Executive Committee for governance, identifying and developing technologies and standards, and coordination of resources.
(d) Regional Interoperability Committee members shall serve without compensation.

§15-14-9. Creation of the Statewide Interoperable Radio Network account; purpose; funding; disbursements.

(a) There is hereby created in the State Treasury a special revenue account to be known as the “Statewide Interoperable Radio Network Account” to be administered by the director. The special revenue account shall consist of appropriations made by the Legislature; income derived from the lease of property, towers or tower space owned, operated or controlled by the WVDHSEM or any other state agency managed as part of the SIRN; moneys received by the Department of Health and Human Resources or WVDHSEM as proceeds of any claims for damages to structures, equipment or property of any kind, including moneys in the Insurance Property Loss Claims Fund administered by the Division of Health; income from the investment of moneys held in the special revenue account; grant money and all other sums available for deposit to the special revenue account from any source, public or private.

(b) Expenditures from the Statewide Interoperable Radio Network Account shall be for the purposes set forth in this article and used exclusively, to pay costs, fees and expenses incurred, or to be incurred for the following purposes: (1) The maintenance, upkeep and repair of the SIRN; (2) operations of the Executive Committee; (3) payment of salaries for the SWIC and any personnel required to operate and maintain the SIRN; (4) the design, implementation and management of the SIRN; (5) all other related SIRN activities approved by the Executive Committee; and (6) all costs incurred in the administration of the Statewide Interoperable Radio Network Account. Expenditures from the fund are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter
eleven-b of this code: Provided, That for the fiscal year ending June 30, 2018, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

(c) Disbursements from the Statewide Interoperable Radio Network Account shall be authorized by the director or his or her designee. Moneys in the Statewide Interoperable Radio Network Account are not available for the payment of any personal injury claims, workers’ compensation claims or other types of disability claims.

(d) Quarterly, the director shall prepare an accounting of all moneys disbursed from and any deposits made to the Statewide Interoperable Radio Network Account. This accounting shall include the reason for the withdraw, the recipients of any withdraw, and the source of any deposit.

§15-14-10. Rule-making.

To implement the provisions of this article, the director may promulgate emergency rules pursuant to section fifteen, article three, chapter twenty-nine-a of this code and may propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code.

CHAPTER 200

(Com. Sub. for S. B. 230 - By Senators Trump, Blair and Maroney)

[Passed April 4, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 20, 2017.]
authorizing West Virginia prosecuting attorneys and assistant prosecuting attorneys to carry concealed firearms nationwide as authorized by the federal Law-Enforcement Officers Safety Act; providing the statutory authority necessary to give prosecuting attorneys and assistant prosecuting attorneys the option to carry firearms pursuant to federal law upon completion of required training and annual background check; granting prosecuting attorneys and assistant prosecuting attorneys arrest powers under certain circumstances; requiring West Virginia law-enforcement agencies to offer access to training and certification for honorably retired officers of said agencies to be permitted to carry a concealed firearm nationwide as a qualified retired law-enforcement officer as provided in the federal Law-Enforcement Officers Safety Act of 2004 and establishing a fee limit thereof; and authorizing West Virginia law-enforcement agencies to offer training to retired law-enforcement officers of other departments.

Be it enacted by the Legislature of West Virginia:

That §7-4-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §30-29-12, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 4. PROSECUTING ATTORNEY; REWARDS; AND LEGAL ADVICE.

§7-4-1. Duties of prosecuting attorney; further duties upon request of Attorney General.

(a) The prosecuting attorney shall attend to the criminal business of the state in the county in which he or she is elected and qualified and when the prosecuting attorney has information of the violation of any penal law committed within the county, the prosecuting attorney shall institute and prosecute all necessary and proper proceedings against the offender and may, in such case, issue or cause to be issued a summons for any witness the prosecuting attorney
considers material. Every public officer shall give the prosecuting attorney information regarding the commission of any criminal offense committed within his or her county. The prosecuting attorney shall also attend to civil suits in the county in which the state or any department, commission or board thereof, is interested, and to advise, attend to, bring, prosecute or defend, as the case may be, all matters, actions, suits and proceedings in which such county or any county board of education is interested.

(b) (1) In furtherance of a prosecuting attorney’s duty to investigate and prosecute criminal offenses, a prosecuting attorney and assistant prosecuting attorneys under his or her supervision shall have the authority to arrest any person committing a violation of the criminal laws of the State of West Virginia, the United States or a violation of Rule 42 of the West Virginia Rules of Criminal Procedure which occur within the office of the prosecuting attorney and committed in the presence of the prosecuting attorney or assistant prosecuting attorney.

(2) For purposes of subdivision (1) of this subsection, the arrest authority of a prosecuting attorney or assistant prosecuting attorney shall be consistent with that authority vested in a deputy sheriff within the geographic limitations set forth in said subdivision.

(3) Should a prosecuting attorney desire to establish a program authorizing prosecuting attorneys and assistant prosecuting attorneys to carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U. S. C. §926B, the following criteria must be met:

(A) The prosecuting attorney’s office shall have a written policy authorizing the prosecuting attorney and his or her assistant prosecuting attorneys to carry a concealed firearm for self-defense purposes;

(B) There shall be in place in the office of the prosecuting attorney a requirement that the prosecuting
attorney and assistant prosecuting attorneys must regularly qualify in the use of a firearm with standards therefor which are equal to or exceed those required of sheriff’s deputies in the county in which the prosecuting attorney was elected or appointed;

(C) The office of the prosecuting attorney shall issue a photographic identification and certification card which identify the prosecuting attorney or assistant prosecuting attorneys as law-enforcement employees of the prosecuting attorney’s office pursuant to the provisions of section twelve, article twenty-nine, chapter thirty of this code.

(4) Any policy instituted pursuant to paragraph (A), subdivision (3) of this subsection shall include provisions which: (i) Preclude or remove a person from participation in the concealed firearm program who is subject to any disciplinary or legal action which could result in the loss of the authority to participate in the program; (ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in section two, article five, chapter seventeen-c of this code.

(5) Any prosecuting attorney or assistant prosecuting attorney who participates in a program authorized by the provisions of this subsection shall be responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) It is the intent of the Legislature in enacting the amendments to this section during the 2017 regular session of the Legislature to authorize prosecuting attorney’s offices wishing to do so to allow prosecuting attorneys and assistant prosecuting attorneys to meet the requirements of the federal Law-Enforcement Officer’s Safety Act, 18 U. S. C. §926B.
(c) The prosecuting attorney shall keep his or her office open in the charge of a responsible person during the hours when polls are open during general, primary and special countywide election days, and the prosecuting attorney, or the prosecuting attorney’s assistant, if any, shall be available for the purpose of advising election officials. The prosecuting attorney, when requested by the Attorney General, shall perform or assist the Attorney General in performing, in the county in which the prosecuting attorney is elected, any legal duties required to be performed by the Attorney General and which are not inconsistent with the duties of the prosecuting attorney as the legal representative of the county. The prosecuting attorney, when requested by the Attorney General, shall perform or assist the Attorney General in performing, any legal duties required to be performed by the Attorney General in any county other than that in which the prosecuting attorney is elected and for the performance of these duties in any county other than that in which the prosecuting attorney is elected, the prosecuting attorney shall be paid his or her actual expenses.

Upon the request of the Attorney General, the prosecuting attorney shall make a written report of the state and condition of the several causes in which the state is a party, pending in his or her county, and upon any matters referred to the prosecuting attorney by the Attorney General as provided by law.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-12. Law-enforcement officers to receive identification and certification to carry weapons off duty.

(a) Every person employed by a West Virginia state, county or municipal agency as a qualified law-enforcement officer within the meaning of 18 U. S. C. §926B, shall receive an appropriate photo identification and certification
of training required to carry a concealed firearm under the federal Law-Enforcement Officers Safety Act, 18 U. S. C. §926B. No currently employed officer may be charged a fee for the photo identification and certification. This subsection does not prohibit a law-enforcement agency from controlling the use of any department-owned weapon.

(b) When a qualified law-enforcement officer, within the meaning of 18 U. S. C. §926B, retires from, or otherwise honorably ceases employment with, a West Virginia state, county or municipal agency, the agency shall provide, at no charge, an appropriate photo identification to show the former employee’s status as an honorably separated or retired qualified retired law-enforcement officer within the meaning of 18 U. S. C. §926C. Every West Virginia state, county or municipal law enforcement agency which conducts firearms qualification for current employees shall offer its honorably retired or separated former employees an opportunity to participate in such firearms qualification on an annual basis. The former employees shall provide, at their own expense, an appropriate firearm and ammunition and may be charged a fee not to exceed $25 for such training. Upon completion of the training and payment of any fee, the law-enforcement agency shall issue a new photo identification and certification which identifies the former employee as a “qualified retired law-enforcement officer” who has satisfied the annual training requirements of 18 U. S. C. §926C.

(c) A law-enforcement agency may, in its sole discretion, allow a person who honorably retired or separated from another federal, state, county or municipal law-enforcement agency as a qualified law-enforcement officer within the meaning of 18 U. S. C. §926B, the opportunity to participate in firearms qualification the agency provides its own former employees under subsection (b) of this section. Participants shall provide, at their own expense, an appropriate firearm and ammunition and may be charged a fee not to exceed $50 for such training. Upon completion of the training and payment of any fee, the law-
enforcement agency shall issue a certificate which states that the retiree satisfied the training requirements of 18 U. S. C. §926C.

CHAPTER 201

(H. B. 2796 - By Delegate Hanshaw)

AN ACT to amend and reenact §15-1J-2 and §15-1J-4 of the Code of West Virginia, 1931, as amended, all relating to authorizing the West Virginia Military Authority to contract on behalf of the West Virginia National Guard with the federal government, certain other entities and individuals for specialized technical services to support specific activities related to national security, homeland security and other military-related programs.

Be it enacted by the Legislature of West Virginia:

That §15-1J-2 and §15-1J-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1J. THE WEST VIRGINIA MILITARY AUTHORITY ACT.

§15-1J-2. Legislative findings.

1 The Legislature finds that the West Virginia National Guard is a unique entity that has a dual mission for both West Virginia and the United States. In this dual capacity, the West Virginia National Guard receives funds to administer programs, including the hiring of employees, that the federal government, including the Department of Defense, provides to the guard in support of specific
activities for various federal agencies for national security and homeland security purposes. These programs fulfill specific agency purposes and necessarily require continued funding by the federal government.

Additionally, the guard continues to receive federal funding to develop and maintain capabilities to house, refurbish, rebuild and maintain military equipment and conduct other test and operational activities to support national and homeland security objectives. These activities require the guard to enter into contracts and subcontracts for specialized technical services and hire persons who will be compensated, in whole or in part, with federal funds. It is further determined and declared that it is necessary for the guard to develop and implement a procedure for hiring and management of nonmilitary employees to support its specific missions.

§15-1J-4. Establishment and general powers of the authority.

(a) The West Virginia Military Authority is hereby established to administer national security, homeland security and other military-related or sponsored programs.

(b) The authority will be administered by the Adjutant General and the Adjutant General’s department.

(c) Funds provided by the federal government and any state funds authorized by appropriation of the Legislature used as a required match to secure federal funding for programs administered by the authority pursuant to this section shall be administered by the Adjutant General subject to the provisions of article eleven, chapter four of this code.

(d) Except as otherwise prohibited by statute, the authority, as a governmental instrumentality exercising public powers of the state, shall have and may exercise all powers necessary or appropriate to carry out the purpose of this article, including the authority to:
(1) Execute cooperative agreements between the guard and the federal and/or state governments;

(2) Contract on behalf of the guard with the federal government, its instrumentalities and agencies, any state, territory or the District of Columbia and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations and individuals;

(3) Use funds administered by the authority pursuant to subsection (c) of this section for the maintenance, construction or reconstruction of capital repair and replacement items as necessary and approved by the authority;

(4) Accept and use funds from the federal government, its instrumentalities and agencies, any state, territory or the District of Columbia and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations and individuals for the purposes of national security, homeland security and other military-related or -sponsored programs;

(5) Procure insurance with state funds through BRIM covering property and other assets of the authority in amounts and from insurers that BRIM determines necessary;

(6) Contract on behalf of the guard with the federal government, its instrumentalities and agencies, any state, territory or the District of Columbia and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations and individuals for specialized technical services at a rate commensurate with industry standards as determined by the Adjutant General to support specific activities related to national security, homeland security and other military-related programs;
(7) Hire employees at an appropriate salary equivalent to a competitive wage rate;

(8) Enroll employees in PERS, PEIA and workers’ compensation and unemployment programs, or their equivalents: Provided, That the authority, through the receipt of federal and/or state funds, pays the required employer contributions;

(9) Cooperate with economic development agencies in efforts to promote the expansion of industrial, commercial and manufacturing in the state;

(10) Develop a human resources division that will administer and manage its employees and receive state matching funds as necessary to ensure maximum federal funds are secured;

(11) Due to the at-will employment relationship with the authority, its employees may not avail themselves of the state grievance procedure as set forth in article six-a, chapter twenty-nine of this code; and

(12) Have the ability to secure all other bonding, insurance or other liability protections necessary for its employees to fulfill their duties and responsibilities.

CHAPTER 202

(Com. Sub. for S. B. 280 - By Senators Boso and Weld)

[Passed April 4, 2017; in effect July 1, 2017.]
[Approved by the Governor on April 21, 2017.]

AN ACT to repeal §29-2A-3a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new
article, designated §15-1K-1, §15-1K-2, §15-1K-3, §15-1K-4, §15-1K-5, §15-1K-6, §15-1K-7, §15-1K-8 and §15-1K-9, all relating to the West Virginia wing of the Civil Air Patrol; eliminating the State Aeronautics Commission’s authority to expend funds to support the West Virginia wing of the Civil Air Patrol; providing for legislative findings and intent; defining terms; providing for the Adjutant General to administer the West Virginia wing of the Civil Air Patrol; providing the Adjutant General the authority to expend appropriated funds to provide certain support to the West Virginia wing of the Civil Air Patrol; providing for unpaid Civil Air Patrol leave and the protection of employees performing Civil Air Patrol missions; providing that employers may not discriminate based on an employee’s membership in the Civil Air Patrol; and providing that an employee may bring a civil action to enforce the provisions of this article but shall not recover monetary damages.

Be it enacted by the Legislature of West Virginia:

That §29-2A-3a of the Code of West Virginia, 1931, as amended, be repealed; and that said code be amended by adding thereto a new article, designated §15-1K-1, §15-1K-2, §15-1K-3, §15-1K-4, §15-1K-5, §15-1K-6, §15-1K-7, §15-1K-8 and §15-1K-9, all to read as follows:

ARTICLE 1K. CIVIL AIR PATROL.

§15-1K-1. Legislative findings and intent.

1 (a) The Legislature hereby makes the following findings:

2 (1) The Civil Air Patrol is the congressionally chartered official auxiliary of the United States Air Force. It performs three congressionally assigned key missions: emergency services, which includes search and rescue, by air and ground, and disaster relief operations; aerospace education for youth and the general public; and cadet programs for teenage youth. In addition, the Civil Air Patrol is tasked with homeland security and other missions.
(2) The Civil Air Patrol also performs nonauxiliary missions for various federal and state governmental and private agencies, such as the West Virginia Army and Air National Guard, State Division of Homeland Security and Emergency Management, the Division of Forestry, local law enforcement, the Federal Emergency Management Agency and the American Red Cross.

(3) The West Virginia wing of the Civil Air Patrol, is organized, equipped, governed, administered and trained in accordance with the rules and regulations of the United States Air Force and the Civil Air Patrol.

(4) The West Virginia wing of the Civil Air Patrol has air and ground assets located throughout the state, as well as highly trained aircrews, ground search crews and other mission support personnel who perform, as unpaid professionals, valuable emergency services missions for the citizens of West Virginia. Additionally, the West Virginia wing of the Civil Air Patrol, through its missions of aerospace education and cadet programs, is instrumental in developing West Virginia’s youth to be the leaders of the future.

(b) In light of the invaluable services provided by the West Virginia wing of the Civil Air Patrol to the state, it is the intent of the Legislature for the state and the Adjutant General to provide administrative, financial and other support to the West Virginia wing of the Civil Air Patrol so that it can continue to train and equip itself and its unpaid personnel to perform these valuable missions for the citizens of the state.

(c) It is also the intent of the Legislature to create protections for employees who are members of the Civil Air Patrol and who train for, and respond to, emergency services missions.


As used in this article:
“Civil Air Patrol leave” means leave requested by an employee who:
(A) Is a volunteer member of the civilian auxiliary of the United States Air Force known as the Civil Air Patrol; and
(B) Has been authorized by the United States Air Force, the Governor or a department, division, agency or political subdivision of the state to respond to or train for an emergency mission.

“Emergency mission” means an Air Force assigned mission under which the West Virginia wing of the Civil Air Patrol conducts operations.

“Employee” means any individual who performs services for, or under the control of, a provider of wages or remuneration.

“Employee benefits” means all benefits other than wages given by an employer.

“Employer” means any person or entity that employs more than fifteen employees.

§15-1K-3. Adjutant General administration; expenses of Civil Air Patrol.
(a) Due to the nature of its congressionally assigned key missions and nonassigned missions, the West Virginia wing of the Civil Air Patrol shall be administered by the Adjutant General and the Adjutant General’s department in accordance with applicable state, federal and Civil Air Patrol regulations.
(b) The Adjutant General, in addition to all other powers and functions authorized by law, may expend state funds:
(1) For operational missions or other objectives related to national security, homeland security, emergency response, disaster relief or other similar missions;

(2) For educational and training purposes of the Civil Air Patrol, including, but not limited to, the purchase of Civil Air Patrol aviation, homeland security and emergency services education training aid books, materials and equipment;

(3) To defray maintenance, repair and replacement costs of Civil Air Patrol aircraft, motor vehicles and other homeland security and emergency services equipment;

(4) To purchase and obtain supplies and equipment for the Civil Air Patrol; and

(5) To maintain the communications network for the Civil Air Patrol and to integrate it with other state communications networks.

(c) Funds specifically appropriated by the Legislature for the purposes specified in subsection (b) of this section may be expended by the Adjutant General and shall be expended for no other purposes.

§15-1K-4. Nondiscrimination by employer against Civil Air Patrol members.

(a) An employer may not discriminate against or discharge from employment an employee who has been employed for a minimum of ninety days and is a member of the Civil Air Patrol because of membership in the Civil Air Patrol.

(b) An employer may not hinder or prevent an employee who has been employed for a minimum of ninety days from performing service as part of the West Virginia wing of the Civil Air Patrol during an emergency mission or training if the member is entitled to leave under this article.
§15-1K-5. Employer to provide leave.

(a) An employer shall provide up to a maximum of ten days per calendar year of unpaid Civil Air Patrol leave to an employee training for an emergency mission of the West Virginia wing of the Civil Air Patrol.

(b) An employer shall provide up to a maximum of thirty days per calendar year of unpaid Civil Air Patrol leave to an employee responding to an emergency mission of the West Virginia wing of the Civil Air Patrol.

(c) An employee shall give the employer:

(1) At least fourteen days’ notice of the intended dates of the beginning and end of leave together with an estimate of the amount of time needed to complete training; and

(2) As much notice as possible of the intended dates of the beginning and end of leave together with an estimate of the amount of time needed to complete an emergency mission.

(d) The employee shall report to the employer necessary changes in the time required to complete the training or mission.

(e) The employer may require verification of the eligibility of the employee for the Civil Air Patrol leave requested or taken.

(f) If the employee fails to provide the required verification, the employer may deny the Civil Air Patrol leave.

(g) An employee taking leave under this article is not required to exhaust all available leave or time-off benefits before using Civil Air Patrol leave.

(h) This article shall not prevent an employer from providing an employee paid leave.
§15-1K-6. Return to work by employee.

(a) When the employee returns to work, the employer shall restore the employee to the position held when the leave began or to a position with equivalent seniority status, benefits, pay and conditions of employment.

(b) An employer may decline to restore an employee as required in this article because of circumstances unrelated to the provisions of this article.

(c) An employer and an employee may negotiate for the employer to pay for the benefits of the employee during the leave, but the employer is not required to continue or maintain employee benefits for any employee eligible for leave under this article where the employee would not be otherwise eligible for any benefit under the policies of the employer or the content of any employee benefit plan which regulates eligibility for benefits.

§15-1K-7. Accrued benefits not lost; leave not to be used with other leave; rights and obligations under collective bargaining or other agreements.

(a) The use of Civil Air Patrol leave under this article may not result in the loss of an employee benefit accrued before the first date of leave.

(b) An employee using leave under any other provision of state or federal law may not concurrently use leave granted under this article.

(c) This article does not affect the obligation of an employer to comply with a collective bargaining agreement or an employee benefit plan that provides greater leave rights to employees than the rights provided under this article.

(d) The grant of leave under this article may not be diminished by a collective bargaining agreement or an employee benefit plan entered into on or after July 1, 2017.

(e) This article does not affect or diminish the contract rights or seniority status of an employee not entitled to Civil Air Patrol leave.

(a) An employer may not interfere with the use of Civil Air Patrol leave allowed under this article.

(b) An employer may not discharge, fine, suspend, expel, discipline or in any other manner discriminate against an employee who is a member of the Civil Air Patrol because that employee complies with the provisions of this article or opposes a practice not in compliance with this article.

§15-1K-9. Action to enforce article authorized.

(a) An employee may bring a civil action in the appropriate circuit court to enforce this article.

(b) The court may enjoin an act or practice that violates this article and may order equitable relief to redress the violation or to enforce this article, including the recovery of lost wages incurred as a result of any violation under this article. No other monetary damages may be awarded or recovered.

CHAPTER 203

(S. B. 690 - By Senators Trump, Weld, Clements, Cline, Ferns, Karnes, Maynard, Rucker, Smith, Swope, Beach, Jeffries, Miller, Ojeda, Romano and Woelfel)

[Passed April 6, 2017; in effect from passage.]
[Approved by the Governor on April 18, 2017.]

AN ACT to amend and reenact §15-2-3 of the Code of West Virginia, 1931, as amended, relating to authorizing the Superintendent of the West Virginia State Police to impose and collect a fee for agencies and entities using the facilities under his or her direction for training purposes.
Be it enacted by the Legislature of West Virginia:

That §15-2-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-3. State Police structure; how established; training; special revenue account.

(a) The superintendent shall create, appoint and equip the State Police which shall consist of the number of troops, districts and detachments required for the proper administration of the State Police. Each troop, district or detachment shall be composed of the number of officers and members the superintendent determines are necessary to meet operational needs and are required for the efficient operation of the State Police. The superintendent shall establish the general organizational structure of the State Police by interpretive rule in accordance with the provisions of article three, chapter twenty-nine-a of this code. The superintendent shall provide adequate facilities for the training of all members of the State Police and shall prescribe basic training requirements for newly enlisted members. He or she shall also provide advanced or in-service training, from time to time, for all members of the State Police. The superintendent shall hold entry-level training classes for other law-enforcement officers in the state without cost to those officers, except actual expenses for food, lodging and school supplies. The superintendent may hold advanced levels of training classes for other law-enforcement officers and those individuals in law enforcement-related professions for a reasonable daily fee per student not to exceed $100. The superintendent may also allow the use of classrooms, firearms training facilities and other training venues by other agencies or entities for a daily fee not to exceed $100 per day, per venue.

(b) There is hereby created in the State Treasury a special revenue account, which shall be an interest bearing account, to be known as the Academy Training and
Professional Development Fund. The special revenue account shall consist of training fees, any appropriations that may be made by the Legislature, income from the investment of moneys held in the special revenue account and all other sums available for deposit to the special revenue account from any source, public or private. No expenditures, for purposes of this section, are authorized from collections except in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions set forth in article two, chapter eleven-b of this code. Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and shall be used solely in a manner consistent with this article. The superintendent is authorized to expend funds from the account to offset operational and training costs; for building maintenance and repair; for purchases and for equipment repair or replacement for the West Virginia State Police Academy; and to defray necessary expenses incidental to those and other activities associated with law-enforcement training.

(c) There is hereby created in the State Treasury a special revenue account, which is an interest bearing account, to be known as the State Police 100th Anniversary Fund. The special revenue account shall consist of merchandise sales, any appropriations that may be made by the Legislature, income from the investment of moneys held in the special revenue account and all other sums available for deposit to the special revenue account from any source, public or private. No expenditures for purposes of this section are authorized from collections except in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions set forth in article two, chapter eleven-b of this code. Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and shall be used solely in a manner consistent with this article. The
superintendent is authorized to expend funds from the account to offset costs for the 100th anniversary celebration; for purchasing 100th anniversary commemorative merchandise, equipment and vehicles; and to defray necessary expenses incidental to those and other activities associated with the 100th anniversary of the West Virginia State Police. This fund expires on December 31, 2019, and remaining funds shall be transferred to the Academy Training and Professional Development Fund.

(d) The superintendent may hold training classes for certification to access and use the West Virginia Automated Police Network for a reasonable daily fee per student not to exceed $100.

(e) There is hereby created in the State Treasury a special revenue account, which is an interest bearing account, to be known as the West Virginia State Police Criminal Justice Information Services Fund. The special revenue account shall consist of: Fees collected for training and certification for access to the West Virginia Automated Police Network system; any appropriations that may be made by the Legislature; income from the investment of moneys held in the special revenue account; and all other sums available for deposit to the special revenue account from any source, public or private. Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and may be used solely in a manner consistent with this article. The superintendent is authorized to expend funds from the account for the following purposes: To offset operational and training costs; for building maintenance and repair; for purchases and for equipment repair; personal services; software; other associated maintenance costs; and to defray necessary expenses incidental to those and other activities associated with the communications section of the West Virginia State Police.
AN ACT to amend and reenact §15-2-10 and §15-2-24 of the Code of West Virginia, 1931, as amended, all relating generally to the West Virginia State Police; and correcting agency referrals and code citations relating to the West Virginia State Police.

Be it enacted by the Legislature of West Virginia:

That §15-2-10 and §15-2-24 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-10. Uniforms; authorized equipment, weapons and supplies; local headquarters; quarters for members; life insurance; medical and hospital fees for injuries and illnesses of members incurred in line of duty.

1 (a) The standard uniform to be used by the West Virginia State Police after the effective date of this article shall be as follows: Forestry green blouse with West Virginia State Police emblem on sleeve; black shoulder strap one-inch black stripe around sleeve, four inches from end of sleeve; forestry green breeches with one-inch black stripe down the side; trousers (slacks) with one-inch black stripe down the side for officers and clerks regularly enlisted
in the State Police; forestry green shirts with West Virginia State Police emblem on sleeve; black shoulder straps; forestry green mackinaw with West Virginia State Police emblem on sleeve; black shoulder straps; one-inch black stripe around sleeve four inches from end of sleeve; campaign hat of olive drab color; black Sam Browne belt with holster; black leggings and shoes; the officer’s uniform will have one and one-quarter inch black stripe around the sleeve of blouse and mackinaw four inches from end of sleeve circumposed with one-half inch gold braid, also black collars on blouse, with two silver shoulder bars for captains, one silver shoulder bar for first lieutenant, one gold shoulder bar for second lieutenant. For noncommissioned officers the uniform blouse and shirt will have thereon black chevrons of the appropriate rank.

(b) The superintendent shall establish the weapons and enforcement equipment which are authorized for use by members of the State Police and shall provide for periodic inspection of the weapons and equipment. He or she shall provide for the discipline of members using other than authorized weapons and enforcement equipment.

(c) The superintendent shall provide the members of the State Police with suitable arms and weapons and, when he or she considers it necessary, with suitably equipped automobiles, motorcycles, watercraft, airplanes and other means of conveyance to be used by the West Virginia State Police, the Governor and other officers and executives in the discretion of the Governor, in times of flood, disaster and other emergencies, for traffic study and control, criminal and safety work and in other matters of official business. He or she shall also provide the standard uniforms for all members of the State Police, for officers, noncommissioned officers and troopers provided for in this section. All uniforms and all arms, weapons and other property furnished the members of the State Police by the State of West Virginia are and remain the property of the state.
(d) The superintendent may purchase and maintain on behalf of members group life insurance not to exceed the amount of $5,000 on behalf of each member.

(e) The superintendent may contract and furnish at State Police expense medical and hospital services for treatment of illness or injury of a member which shall be determined by the superintendent to have been incurred by the member while engaged in the performance of duty and from causes beyond control of the members. Notwithstanding any other provision of this code, the superintendent has the right of subrogation in any civil action or settlement brought by or on behalf of a member in relation to any act by another which results in the illness, injury or death of a member. To this end, the superintendent may initiate an action on behalf of the State Police in order to recover the costs incurred in providing medical and hospital services for the treatment of a member resulting from injury or illness originating in the performance of official duties. This subsection shall not affect the power of a court to apply ordinary equitable defenses to the right of subrogation.

The superintendent may also consult with the West Virginia Insurance Commissioner in an effort to defray the cost of medical and hospital services. In no case will the compensation rendered to health care providers for medical and hospital services exceed the then current rate schedule in use by the West Virginia Insurance Commissioner.

Third-party reimbursements received by the superintendent after the expiration of the fiscal year in which the injury, illness or death occurred will be deposited to a nonexpiring special revenue account. Funds deposited to this account may be used solely for defraying the costs of medical or hospital services rendered to any sworn members as a direct result of an illness, injury or death resulting from the performance of official duties.

(f) The superintendent shall establish and maintain local headquarters at those places in West Virginia that are in his
or her judgment suitable and proper to render the West Virginia State Police most efficient for the purpose of preserving the peace, protecting property, preventing crime, apprehending criminals and carrying into effect all other provisions of this article. The superintendent shall provide, by acquisition, lease or otherwise, for local headquarters, for housing and quarters for the accommodation of the members of the West Virginia State Police, and for any other facilities necessary or useful for the effective operation of the West Virginia State Police and shall provide all equipment and supplies necessary for the members of the West Virginia State Police to perform their duties.

§15-2-24. Criminal Identification Bureau; establishment; supervision; purpose; fingerprints, photographs, records and other information; reports by courts and prosecuting attorneys; offenses and penalties.

(a) The superintendent of the department shall establish, equip and maintain at the departmental headquarters a Criminal Identification Bureau, for the purpose of receiving and filing fingerprints, photographs, records and other information pertaining to the investigation of crime and the apprehension of criminals, as hereinafter provided. The superintendent shall appoint or designate a supervisor to be in charge of the Criminal Identification Bureau and such supervisor shall be responsible to the superintendent for the affairs of the bureau. Members of the department assigned to the Criminal Identification Bureau shall carry out their duties and assignments in accordance with internal management rules and regulations pertaining thereto promulgated by the superintendent.

(b) The Criminal Identification Bureau shall cooperate with identification bureaus of other states and of the United States to develop and carry on a complete interstate, national and international system of criminal identification.
(c) The Criminal Identification Bureau may furnish fingerprints, photographs, records or other information to authorized law-enforcement and governmental agencies of the United States and its territories, of foreign countries duly authorized to receive the same, of other states within the United States and of the State of West Virginia upon proper request stating that the fingerprints, photographs, records or other information requested are necessary in the interest of and will be used solely in the administration of official duties and the criminal laws.

(d) The Criminal Identification Bureau may furnish, with the approval of the superintendent, fingerprints, photographs, records or other information to any private or public agency, person, firm, association, corporation or other organization, other than a law-enforcement or governmental agency as to which the provisions of subsection (c) of this section shall govern and control, but all requests under the provisions of this subsection for such fingerprints, photographs, records or other information must be accompanied by a written authorization signed and acknowledged by the person whose fingerprints, photographs, records or other information is to be released.

(e) The Criminal Identification Bureau may furnish fingerprints, photographs, records and other information of persons arrested or sought to be arrested in this state to the identification bureau of the United States government and to other states for the purpose of aiding law enforcement.

(f) Persons in charge of any penal or correctional institution, including any city or county jail in this state, shall take, or cause to be taken, the fingerprints and description of all persons lawfully committed thereto or confined therein and furnish the same in duplicate to the Criminal Identification Bureau, Department of Public Safety. Such fingerprints shall be taken on forms approved by the superintendent of the Department of Public Safety. All such officials as herein named may, when possible to do
so, furnish photographs to the Criminal Identification Bureau of such persons so fingerprinted.

(g) Members of the Department of Public Safety, and all other state law-enforcement officials, sheriffs, deputy sheriffs and each and every peace officer in this state, shall take or cause to be taken the fingerprints and description of all persons arrested or detained by them, charged with any crime or offense in this state, in which the penalty provided therefor is confinement in any penal or correctional institution, or of any person who they have reason to believe is a fugitive from justice or a habitual criminal, and furnish the same in duplicate to the Criminal Identification Bureau of the Department of Public Safety on forms approved by the superintendent of said department. All such officials as herein named may, when possible to do so, furnish to the Criminal Identification Bureau photographs of such persons so fingerprinted. For the purpose of obtaining data for the preparation and submission to the Governor and the Legislature by the Department of Public Safety of an annual statistical report on crime conditions in the state, the clerk of any court of record, the magistrate of any magistrate court and the mayor or clerk of any municipal court before which a person appears on any criminal charge shall report to the Criminal Identification Bureau the sentence of the court or other disposition of the charge and the prosecuting attorney of every county shall report to the Criminal Identification Bureau such additional information as the bureau may require for such purpose, and all such reports shall be on forms prepared and distributed by the Department of Public Safety, shall be submitted monthly and shall cover the period of the preceding month.

(h) All persons arrested or detained pursuant to the requirements of this article shall give fingerprints and information required by subsections (f) and (g) of this section. Any person who has been fingerprinted or photographed in accordance with the provisions of this section who is acquitted of the charges upon which he or she
was arrested and who has no previous criminal record may, upon the presentation of satisfactory proof to the department, have such fingerprints or photographs, or both, returned to them.

(i) All state, county and municipal law-enforcement agencies shall submit to the bureau uniform crime reports setting forth their activities in connection with law enforcement. It shall be the duty of the bureau to adopt and promulgate rules and regulations prescribing the form, general content, time and manner of submission of such uniform crime reports. Willful or repeated failure by any state, county or municipal law-enforcement official to submit the uniform crime reports required by this article shall constitute neglect of duty in public office. The bureau shall correlate the reports submitted to it and shall compile and submit to the Governor and the Legislature semiannual reports based on such reports. A copy of such reports shall be furnished to all prosecuting attorneys and law-enforcement agencies.

(j) Neglect or refusal of any person mentioned in this section to make the report required herein, or to do or perform any act on his or her part to be done or performed in connection with the operation of this section, shall constitute a misdemeanor and such person shall, upon conviction thereof, be punished by a fine of not less than $25 nor more than $200, or by imprisonment in the county jail for a period of not more than sixty days, or both. Such neglect shall constitute misfeasance in office and subject such persons to removal from office. Any person who willfully removes, destroys or mutilates any of the fingerprints, photographs, records or other information of the Department of Public Safety shall be guilty of a misdemeanor and such person shall, upon conviction thereof, be punished by a fine of not more than $100, or by imprisonment in the county jail for a period of not more than six months, or both.
(k) The Criminal Identification Bureau (CIB) and the Federal Bureau of Investigation (FBI) shall retain applicant fingerprints for the purpose of participating in the Rap Back Program to determine suitability or fitness for a permit, license or employment. Agencies participating in the program shall notify applicants and employees subject to a criminal history check that their fingerprint shall be retained by the CIB and the FBI. Notification shall also be given to the applicant and employee subject to the Rap Back Program.

(l) The State Police may assess a fee to applicants, covered providers or covered contractors for conducting the criminal background check and for collecting and retaining fingerprints for Rap Back as authorized under article forty-nine, chapter sixteen of this code. The assessment shall be deposited into a nonappropriated special revenue account within the State Treasurer’s office to be known as the WVSP Criminal History Account. Expenditures from this account shall be made by the superintendent for purposes set forth in this article and are authorized from collections. The account shall be administered by the superintendent and may not be deemed a part of the general revenue of the state.

CHAPTER 205

(Com. Sub. for H. B. 2939 - By Delegate Hamilton)

[Passed April 5, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 24, 2017.]

AN ACT to amend and reenact §15-2-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-2E-3 and §15-2E-5 of said code, all relating to the sale of items in the State Police Academy post exchange to the public.

Be it enacted by the Legislature of West Virginia:
That §15-2-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §15-2E-3 and §15-2E-5 of said code be amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-17. Unauthorized use of uniform, badge or other insignia; impersonation of member; penalty.

Every person who is not a member of the department is hereby forbidden to wear, use, order to be used or worn, copy or imitate in any respect or manner the uniform, badge, insignia and equipment prescribed for members of the West Virginia State Police, and any person who shall violate the provisions of this article, for which no other penalty is expressly provided, and any person who shall falsely represent himself or herself to be an officer or member of the West Virginia State Police, or to be under the order or direction of any officer or member of said department, or who shall, unless an officer or member thereof, wear the uniform prescribed for members of said department, or the badge or other insignia adopted or used by said department, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $200, or confined in the county jail for not more than six months, or both fined and confined: Provided, That items sold at the State Police post exchange as outlined in article two-e of this chapter do not qualify as agency issued uniforms, badge, insignia or equipment.

ARTICLE 2E. STATE POLICE ACADEMY POST EXCHANGE.


(a) The State Police post exchange may offer items for sale as approved by the superintendent.

(b) The post exchange may only be open at such times as may be established by the superintendent.

(c) The superintendent shall appoint state police employees to supervise the operation of the post exchange.
(d) The superintendent shall establish a system of bookkeeping, accounting and auditing procedures for the proper handling of funds derived from the operation of the post exchange.

(e) The superintendent shall post a sign in the post exchange which states: “In accordance with the provisions of section seventeen, article two, chapter fifteen of the code, it is unlawful for every person who is not a member of the State Police to wear or use the State Police uniform, badge, emblem or other insignia. Any person, who is not a member of the State Police, who wears or uses the State Police uniform, badge, emblem or other insignia shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined or jailed or both fined and jailed”.

§15-2E-5. Use of funds from post exchange revenue.

All proceeds derived from the operation of the post exchange and any money derived from the operation of vending machines, after the payment of operating expenses, notwithstanding any provision of this code to the contrary, must be used exclusively for the publication of the cadet class yearbook, capital outlay, equipment and for repair and alteration of the State Police academy.

CHAPTER 206

(Com. Sub. for H. B. 2676 - By Delegates White, Dean, Westfall, Blair, Paynter, Maynard, G. Foster, Hill, Harshbarger, Phillips and Higginbotham)

[Passed April 5, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 25, 2017.]
Be it enacted by the Legislature of West Virginia:

That §15-2D-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

ARTICLE 2D. DIVISION OF PROTECTIVE SERVICES.

§15-2D-3. Duties and powers of the director and officers.

(a) The director is responsible for the control and supervision of the division. The director and any officer of the division specified by the director may carry designated weapons and have the same powers of arrest and law enforcement in Kanawha County as members of the West Virginia State Police as set forth in subsections (b) and (d), section twelve, article two of this chapter: Provided, That the director and designated members shall have such powers throughout the State of West Virginia in investigating and performing law-enforcement duties for offenses committed on the Capitol Complex or related to the division’s security and protection duties at the Capitol Complex: Provided, however, That the director and designated members shall have said powers throughout the state relating to offenses and activities occurring on any property owned, leased or operated by the State of West Virginia when undertaken at the request of the agency occupying the property: Provided further, That nothing in this article shall be construed as to obligate the director or the division to provide or be responsible for providing security at state facilities outside the Capitol Complex.

(b) Any officer of the division shall be certified as a law-enforcement officer by the Governor’s Committee on Crime, Delinquency and Correction or may be conditionally employed as a law-enforcement officer until certified in accordance with the provisions of section five, article twenty-nine, chapter thirty of this code.
(c) The director may:

1. Employ necessary personnel, all of whom shall be classified exempt, assign them the duties necessary for the efficient management and operation of the division and specify members who may carry, without license, weapons designated by the director;

2. Contract for security and other services;

3. Purchase equipment as necessary to maintain security at the Capitol Complex and other state facilities as may be determined by the Secretary of the Department of Military Affairs and Public Safety;

4. Establish and provide standard uniforms, arms, weapons and other enforcement equipment authorized for use by members of the division and shall provide for the periodic inspection of the uniforms and equipment. All uniforms, arms, weapons and other property furnished to members of the division by the State of West Virginia is and remains the property of the state;

5. Appoint security officers to provide security on premises owned or leased by the State of West Virginia;

6. Upon request by the Superintendent of the West Virginia State Police, provide security for the Speaker of the West Virginia House of Delegates, the President of the West Virginia Senate, the Governor or a justice of the West Virginia Supreme Court of Appeals;

7. Gather information from a broad base of employees at and visitors to the Capitol Complex to determine their security needs and develop a comprehensive plan to maintain and improve security at the Capitol Complex based upon those needs; and

8. Assess safety and security needs and make recommendations for safety and security at any proposed or existing state facility as determined by the Secretary of the
61  Department of Military Affairs and Public Safety, upon
62  request of the secretary of the department to which the
63  facility is or will be assigned.

64  (d) The director shall:

65  (1) On or before July 1, 1999, propose legislative rules
66  for promulgation in accordance with the provisions of
67  article three, chapter twenty-nine-a of this code. The rules
68  shall, at a minimum, establish ranks and the duties of
69  officers within the membership of the division.

70  (2) On or before July 1, 1999, enter into an interagency
71  agreement with the Secretary of the Department of Military
72  Affairs and Public Safety and the Secretary of the
73  Department of Administration, which delineates their
74  respective rights and authorities under any contracts or
75  subcontracts for security personnel. A copy of the
76  interagency agreement shall be delivered to the Governor,
77  the President of the West Virginia Senate and the Speaker
78  of the West Virginia House of Delegates and a copy shall
79  be filed in the office of the Secretary of State and shall be a
80  public record.

81  (3) Deliver a monthly status report to the Speaker of the
82  West Virginia House of Delegates and the President of the
83  West Virginia Senate.

84  (e) Require any service provider whose employees are
85  regularly employed on the grounds or in the buildings of the
86  Capitol Complex or who have access to sensitive or critical
87  information submit to a fingerprint-based state and federal
88  background inquiry through the state repository, and require
89  a new employee who is employed to provide services on the
90  grounds or in the building of the Capitol Complex to submit
91  to an employment eligibility check through E-verify.

92  (1) After the contract for such services has been
93  approved, but before any such employees are permitted to
94  be on the grounds or in the buildings of the Capitol Complex
or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol Complex for purposes of verifying compliance with this section.

(2) All current service providers shall, within ninety days of the amendment and reenactment of this section by the eightieth Legislature, ensure that all of its employees who are providing services on the grounds or in the buildings of the Capitol Complex or who have access to sensitive or critical information submit to a fingerprint-based state and federal background inquiry through the state repository.

(3) Any contract entered into, amended or renewed by an agency or entity of state government with a service provider shall contain a provision reserving the right to prohibit specific employees thereof from accessing sensitive or critical information or to be present at the Capitol Complex based upon results addressed from a criminal background check.

(4) For purposes of this section, the term “service provider” means any person or company that provides employees to a state agency or entity of state government to work on the grounds or in the buildings that make-up the Capitol Complex or who have access to sensitive or critical information.

(5) In accordance with the provisions of Public Law 92-544 the criminal background check information will be released to the Director of the Division of Protective Services.

(f) Effective July 1, 2017, the Director of Security and security officers of the Division of Culture and History shall be made part of, and be under the supervision and direction of the Division of Protective Services. Security for all Capitol Complex properties of the Division of Culture and History shall be the responsibility of the Division of Protective Services.
AN ACT to amend and reenact §15-3B-2, §15-3B-3, §15-3B-4, §15-3B-5 and §15-3B-6 of the Code of West Virginia, 1931, as amended, all relating to the Silver Alert Plan; providing for the Silver Alert program to be available for missing senior citizens; defining “senior citizen”; requiring the Silver Alert plan address missing senior citizens; and applying Silver Alert program procedures to missing senior citizens.

Be it enacted by the Legislature of West Virginia:

That §15-3B-2, §15-3B-3, §15-3B-4, §15-3B-5 and §15-3B-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 3B. SILVER ALERT PLAN.

§15-3B-2. Findings and declarations relative to “Silver Alert Plan”.

(a) The Legislature finds that:

1. (1) Public alerts can be one of the most effective tools in locating missing cognitively impaired persons or senior citizens;

2. (2) Law-enforcement officers and other professionals specializing in the field of missing persons agree that the most critical moments in the search for a missing person are the first few hours immediately following the discovery that the individual is missing, asserting that if he or she is not
found within twenty-four hours, it is unlikely that he or she will be found alive or without serious injury. The rapid dissemination of information, including a description of the missing cognitively impaired person or senior citizen, details of how he or she became missing, and of any vehicle involved, to the citizens of the affected community and region is, therefore, critical;

(3) Alerted to the situation, the citizenry become an extensive network of eyes and ears serving to assist law enforcement in quickly locating and safely recovering a missing cognitively impaired person or senior citizen;

(4) The most effective method of immediately notifying the public of a missing cognitively impaired person or senior citizen is through the broadcast media; and

(5) All forms of developing technologies are required to assist law enforcement in rapidly responding to these alerts and are an additional tool for assuring the well being and safety of our cognitively impaired citizenry. Thus, the use of traffic video recording and monitoring devices for the purpose of surveillance of a suspect vehicle adds yet another set of eyes to assist law enforcement and aid in the safe recovery of the cognitively impaired person or senior citizen.

(b) The Legislature declares that given the successes other states and regions have experienced in using broadcast media alerts to quickly locate and safely recover missing persons, and, with the recent development of highway video recording and monitoring systems, it is altogether fitting and proper, and within the public interest, to establish these programs for West Virginia.

§15-3B-3. Establishment of “Silver Alert” program.

(a) The Secretary of the Department of Military Affairs and Public Safety shall establish a “Silver Alert” program authorizing the broadcast media, upon notice from the State Police, to broadcast an alert to inform the public of a missing
cognitively impaired person or a missing senior citizen, subject to the criteria established in section four of this article. The program shall be a voluntary, cooperative effort between state law-enforcement and the broadcast media.

(b) As used in this article:

(1) “Cognitively impaired” means a person having a deficiency in his or her short-term or long-term memory, orientation as to person, place, and time, deductive or abstract reasoning, or judgment as it relates to safety: Provided, That the cognitive impairment is not caused by the use of alcohol or drugs not legally prescribed by a physician; and

(2) “Senior citizen” means a person over sixty-five years of age.

(c) The secretary shall notify the broadcast media serving the State of West Virginia of the establishment of “Silver Alert” program and invite their voluntary participation.

(d) The secretary shall submit a plan to the Joint Committee on Government and Finance no later than December 1, 2009. The plan shall include “Silver Alert” activation protocols, evaluation of first responder training requirements and needs as related to cognitively impaired persons and senior citizens, coordination and utilization of established programs and analysis of any costs. The secretary shall also make recommendations for any additional legislation or actions necessary to further facilitate the implementation of the “Silver Alert” program.

§15-3B-4. Activation of Silver Alert.

The following criteria shall be met before the State Police activate the Silver Alert:

(1) The person is believed to be cognitively impaired or is a senior citizen;
(2) The person is believed to be missing, regardless of circumstance;

(3) A person who has knowledge that the person is missing has submitted a missing person’s report to the State Police or other appropriate law-enforcement agency;

(4) The missing person may be in danger of death or serious bodily injury;

(5) The missing person is domiciled or believed to be located in the State of West Virginia;

(6) The missing person is, or is believed to be, at a location that cannot be determined by an individual familiar with the missing person, and the missing person is incapable of returning to the missing person’s residence without assistance; and

(7) There is sufficient information available to indicate that a Silver Alert would assist in locating the missing person.

§15-3B-5. Notice to participating media; broadcast of alert.

(a) To participate, the media may agree, upon notice from the State Police via email or facsimile, to transmit information to the public about a missing cognitively impaired person or senior citizen that has occurred within their broadcast service region.

(b) The alerts shall include a description of the missing cognitively impaired person or senior citizen, such details of the circumstance surrounding him or her becoming missing, as may be known, and such other information as the State Police may deem pertinent and appropriate. The State Police shall in a timely manner update the broadcast media with new information when appropriate concerning the missing cognitively impaired person or senior citizen.
(c) The alerts also shall provide information concerning how those members of the public who have information relating to the missing cognitively impaired person or senior citizen may contact the State Police or other appropriate law-enforcement agency.

(d) Concurrent with the notice provided to the broadcast media, the State Police shall also notify the Department of Transportation, the Division of Highways and the West Virginia Turnpike Commission of the “Silver Alert” so that the department and the affected authorities may, if possible, through the use of their variable message signs, inform the motoring public that a “Silver Alert” is in progress and may provide information relating to the missing cognitively impaired person or senior citizen and how motorists may report any information they have to the State Police or other appropriate law-enforcement agency.

(e) The alerts shall terminate upon notice from the State Police.

(f) The secretary shall develop and undertake a campaign to inform law-enforcement agencies about the “Silver Alert” program established under this article.

§15-3B-6. Aid to missing cognitively impaired adult or senior citizen; immunity from civil or criminal liability.

No person or entity who in good faith follows and abides by the provisions of this article is liable for any civil or criminal penalty as the result of any act or omission in the furtherance thereof unless it is alleged and proven that the information disclosed was false and disclosed with the knowledge that the information was false.
AN ACT to amend and reenact §29-3-5d of the Code of West Virginia, 1931, as amended, relating to authorizing the State Fire Commission to establish and administrate a pilot project program to address problems facing volunteer fire departments; and requiring annual reports.

Be it enacted by the Legislature of West Virginia:

That §29-3-5d of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-5d. Volunteer firefighters’ training.

1 (a) On or before July 30, 2012, the State Fire Commission shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish training requirements for firefighters which:

6 (1) Provide for:

7 (A) Minimum training levels for rescue and firefighting;

8 (B) Minimum levels of equipment needed to protect life and property within fire service areas;

10 (C) Minimum performance standards the departments must meet in response times, communications, levels of water flow and pressure; and
(D) Other performance measures as considered necessary to meet the overall goals of improved fire prevention and control;

(2) Allow the training to be offered in segments, blocks or modules: *Provided,* That no firefighter may engage in firefighting activities, except in response to wildland fires, until he or she has completed all firefighter one training: *Provided, however,* That support members may provide ancillary assistance to firefighters as defined by the rule;

(3) Provide for online training;

(4) Allow testing to be done in person or online; and

(5) Establish the testing requirements which include:

(A) If the individual is required to test in person, then the tests must be given regionally at various times throughout the year; or

(B) If the individual is authorized to test online, then the requirements for online testing must be established.

(b) The State Fire Commission may promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to effectuate the provisions of this section.

(c) The training policies in effect as of the effective date of the enactment of this section during the regular session of 2012 will remain in effect until superseded by the emergency rule or legislative rule promulgated pursuant to this section.

(d) Notwithstanding any provision of this code to the contrary, the State Fire Commission may establish a pilot project program which implements changes to standards imposed on volunteer firefighting that address problems facing volunteer fire departments in the state, including issues related to training, recruitment and retention.
(1) The State Fire Commission may limit the number of participating volunteer fire departments in the pilot project program.

(2) The State Fire Commission shall set the rules and conditions for participating volunteer fire departments by policies adopted and ratified by the commission.

(3) Commencing July 1, 2018, and each year thereafter, the State Fire Commission shall annually provide a full summary report of the status of the program to the Joint Committee on Government and Finance.

CHAPTER 209

(Com. Sub. for S. B. 180 - By Senator Blair)

[Passed April 4, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 25, 2017.]

AN ACT to amend and reenact §24-2-1 of the Code of West Virginia, 1931, as amended, relating to Internet protocol-enabled service and voice-over Internet protocol-enabled service; prohibiting Public Service Commission jurisdiction of Internet protocol-enabled service and voice-over Internet protocol-enabled service; and limiting Public Service Commission jurisdiction of certain telephone company transactions.

Be it enacted by the Legislature of West Virginia:

That §24-2-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:
ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

*§24-2-1. Jurisdiction of commission; waiver of jurisdiction.*

(a) The jurisdiction of the commission shall extend to all public utilities in this state and shall include any utility engaged in any of the following public services:

Common carriage of passengers or goods, whether by air, railroad, street railroad, motor or otherwise, by express or otherwise, by land, water or air, whether wholly or partly by land, water or air; transportation of oil, gas or water by pipeline; transportation of coal and its derivatives and all mixtures and combinations thereof with other substances by pipeline; sleeping car or parlor car services; transmission of messages by telephone, telegraph or radio; generation and transmission of electrical energy by hydroelectric or other utilities for service to the public, whether directly or through a distributing utility; supplying water, gas or electricity by municipalities or others; sewer systems servicing twenty-five or more persons or firms other than the owner of the sewer systems: Provided, That if a public utility other than a political subdivision intends to provide sewer service by an innovative, alternative method, as defined by the federal Environmental Protection Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction of the Public Service Commission regardless of the number of customers served by the innovative, alternative method; any public service district created under the provisions of article thirteen-a, chapter sixteen of this code; toll bridges, wharves, ferries; solid waste facilities; and any other public service: Provided, however, That natural gas producers who provide natural gas service to not more than twenty-five residential

*Note: This section was also amended by H. B. 3096 (Chapter 161), which passed subsequent to this act.*
customers are exempt from the jurisdiction of the
commission with regard to the provisions of such residential
service: Provided further, That upon request of any of the
customers of such natural gas producers, the commission
may, upon good cause being shown, exercise such authority
as the commission may deem appropriate over the
operation, rates and charges of such producer and for such
length of time as the commission may consider to be proper.

(b) The jurisdiction of the commission over political
subdivisions of this state providing separate or combined
services and having at least four thousand five hundred
customers and annual combined gross revenues of $3
million or more that are political subdivisions of the state is
limited to:

(1) General supervision of public utilities, as granted
and described in section five of this article;

(2) Regulation of measurements, practices, acts or
services, as granted and described in section seven of this
article;

(3) Regulation of a system of accounts to be kept by a
public utility that is a political subdivision of the state, as
granted and described in section eight of this article;

(4) Submission of information to the commission
regarding rates, tolls, charges or practices, as granted and
described in section nine of this article;

(5) Authority to subpoena witnesses, take testimony and
administer oaths to any witness in any proceeding before, or
conducted by, the commission, as granted and described in
section ten of this article; and

(6) Investigation and resolution of disputes involving
political subdivisions of the state regarding inter-utility
agreements, rates, fees and charges, service areas and
contested utility combinations.
Customers of water and sewer utilities operated by a political subdivision of the state and customers of stormwater utilities operated by a public service district may bring formal or informal complaints regarding the commission’s exercise of the powers enumerated in this section and the commission shall resolve these complaints.

In the event that a political subdivision has a deficiency in either its bond revenue or bond reserve accounts, or is otherwise in breach of a bond covenant, the bond holder may petition the Public Service Commission for such redress as will bring the accounts to current status or otherwise resolve the breached covenant, and the commission shall have jurisdiction to fully resolve the alleged deficiency or breach.

The commission may, upon application, waive its jurisdiction and allow a utility operating in an adjoining state to provide service in West Virginia when:

(1) An area of West Virginia cannot be practicably and economically served by a utility licensed to operate within the State of West Virginia;

(2) Said area can be provided with utility service by a utility which operates in a state adjoining West Virginia;

(3) The utility operating in the adjoining state is regulated by a regulatory agency or commission of the adjoining state; and

(4) The number of customers to be served is not substantial. The rates the out-of-state utility charges West Virginia customers shall be the same as the rate the utility is duly authorized to charge in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke its waiver of jurisdiction for good cause.

Any other provisions of this chapter to the contrary notwithstanding:
(1) An owner or operator of an electric-generating facility located, or to be located, in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for which such facility the owner or operator holds a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall be subject to subsections (e), (f), (g), (h), (i) and (j), section eleven-c of this article as if the certificate of public convenience and necessity for such facility were a siting certificate issued under said section and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in subdivision (5) of this subsection.

(2) Any person, corporation or other entity that intends to construct, or construct and operate, an electric-generating facility to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for which facility the owner or operator does not hold a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of section eleven-c of this article in lieu of a certificate of public convenience and necessity pursuant to the provisions of section eleven of this article. An owner or operator of an electric-generating facility as is described in this subdivision for which a siting certificate has been issued by the commission shall be subject to subsections (e), (f), (g), (h), (i) and (j), section eleven-c of this article and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in subdivision (5) of this subsection.
(3) An owner or operator of an electric-generating facility located in this state that has not been designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that generates electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both such sales at retail and such sales at wholesale and that had been constructed and had engaged in commercial operation on or before July 1, 2003, shall not be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility, regardless of whether such facility subsequent to its construction has been or will be designated as an exempt wholesale generator under applicable federal law: Provided, That such owner or operator shall be subject to subdivision (5) of this subsection if a material modification of such facility is made or constructed.

(4) Any person, corporation or other entity that intends to construct, or construct and operate, an electric-generating facility to be located in this state that has not been or will not be designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that will generate electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both such sales at retail and such sales at wholesale and that had not been constructed and had not been engaged in commercial operation on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of section eleven-c of this article in lieu of a certificate of public convenience and necessity pursuant to the provisions of section eleven of this article. An owner or operator of an electric-generating facility as is described in this subdivision for which a siting certificate has been issued by the commission shall be subject to subsections (e), (f), (g), (h), (i) and (j), section eleven-c of
this article and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in subdivision (5) of this subsection.

(5) An owner or operator of an electric-generating facility described in this subsection shall, before making or constructing a material modification of the facility that is not within the terms of any certificate of public convenience and necessity or siting certificate previously issued for the facility or an earlier material modification thereof, obtain a siting certificate for the modification from the commission pursuant to the provisions of section eleven-c of this article in lieu of a certificate of public convenience and necessity for the modification pursuant to the provisions of section eleven of this article and, except for the provisions of section eleven-c of this article, shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such modification.

(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to section eleven of this article to construct an electric-generating facility described in this subsection or to make or construct a material modification of such electric-generating facility as an application for a siting certificate pursuant to section eleven-c of this article if the application for the certificate of public convenience and necessity was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order thereon as of that date.

(7) The limitations on the jurisdiction of the commission over, and on the applicability of the provisions of this chapter to, the owner or operator of an electric-generating facility as imposed by and described in this subsection shall not be deemed to affect or limit the commission’s jurisdiction over contracts or arrangements between the
owner or operator of such facility and any affiliated public utility subject to the provisions of this chapter.

(e) The commission shall not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection:

(1) “Internet protocol-enabled service” means any service, capability, functionality or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data or video.

(2) “Voice-over Internet protocol service” means any service that:

(i) Enables real-time two-way voice communications that originate or terminate from the user’s location using Internet protocol or a successor protocol; and

(ii) Uses a broadband connection from the user’s location.

(3) The term “voice-over Internet protocol service” includes any service that permits users to receive calls that originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.

(f) Notwithstanding any other provisions of this article, the commission shall not have jurisdiction to review or approve any transaction involving a telephone company otherwise subject to sections twelve and twelve-a, article two, chapter twenty-four of this code if all entities involved in the transaction are under common ownership.
AN ACT to amend and reenact §24A-1-3 of the Code of West Virginia, 1931, as amended, all relating generally to the jurisdiction of the Public Service Commission over motor carriers; exempting vehicles engaged in nonemergency transportation of Medicaid members from permit requirements; and exempting the transportation of household goods from the jurisdiction of the Public Service Commission.

Be it enacted by the Legislature of West Virginia:

That §24A-1-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. PURPOSES, DEFINITIONS AND EXEMPTIONS.

§24A-1-3. Exemptions from chapter.

The provisions of this chapter, except where specifically otherwise provided, do not apply to:

(1) Motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers: Provided, That the vehicles and their operators are subject to the safety rules promulgated by the commission;

(2) Motor vehicles owned and operated by the United States of America, the State of West Virginia or any county, municipality or county board of education, urban mass transportation authority established and maintained pursuant to article twenty-seven, chapter eight of this code
or by any of their departments, and any motor vehicles operated under a contract with a county board of education exclusively for the transportation of children to and from school or other legitimate transportation for the schools as the commission may specifically authorize;

(3) Motor vehicles used exclusively in the transportation of agricultural or horticultural products, livestock, poultry and dairy products from the farm or orchard on which they are raised or produced to markets, processing plants, packing houses, canneries, railway shipping points and cold storage plants, and in the transportation of agricultural or horticultural supplies to farms or orchards where they are to be used: Provided, That the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the safety and insurance rules promulgated by the commission;

(4) Motor vehicles used exclusively in the transportation of human or animal excreta;

(5) Motor vehicles used exclusively in ambulance service or duly chartered rescue squad service;

(6) Motor vehicles used exclusively for volunteer fire department service;

(7) Motor vehicles used exclusively in the transportation of coal from mining operations to loading facilities for further shipment by rail or water carriers: Provided, That the vehicles and their operators are subject to the safety rules promulgated by the commission and the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the insurance rules promulgated by the commission;
(8) Motor vehicles used by petroleum commission agents and oil distributors solely for the transportation of petroleum products and related automotive products when the transportation is incidental to the business of selling the products: Provided, That the vehicles and their operators are subject to the safety rules promulgated by the commission and the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the insurance rules promulgated by the commission;

(9) Motor vehicles owned, leased by or leased to any person and used exclusively for the transportation of processed source-separated recycled materials generated by commercial, institutional and industrial customers, transported free of charge or by a nonprofit recycling cooperative association in accordance with subdivision (1), subsection (d), section one, article four, chapter nineteen of this code from the customers to a facility for further processing: Provided, That the vehicles and their operators shall be subject to the safety rules promulgated by the commission and the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the insurance rules promulgated by the commission;

(10) Motor vehicles specifically preempted from state economic regulation of intrastate motor carrier operations by the provisions of 49 U. S. C. §14501 as amended by Title I, Section 103 of the federal Interstate Commerce Commission Termination Act of 1995: Provided, That the vehicles and their operators are subject to the safety regulations promulgated by the commission and the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the insurance rules promulgated by the commission;
(11) Motor vehicles designated by the West Virginia Bureau of Senior Services for use and operation by local county aging programs: Provided, That the vehicles and their operators are subject to the safety rules promulgated by the commission;

(12) Motor vehicles designated by the West Virginia Division of Public Transit operated by organizations that receive federal grants from the Federal Transit Administration: Provided, That the vehicles and their operators are subject to the safety and insurance rules promulgated by the commission;

(13) Motor vehicles used exclusively in the nonemergency medical transportation of Medicaid members including those under contract with any broker authorized by the Bureau for Medical Services: Provided, That these vehicles and their operators shall be subject to the safety rules promulgated by the commission; and

(14) Common carriers or contract carriers engaged in the business of transporting household goods and motor vehicles used exclusively in the transportation of household goods.

CHAPTER 211

(H. B. 3022 - By Delegate Shott)

[Passed April 8, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 26, 2017.]
misappropriation of moneys, and other violations of law relating to the public trust to the commission on special investigations; requiring reporting when a county commission, or any of a county’s boards, committees, or certain other county entities obtain certain information regarding misappropriation, fraud or violations of law relating to the public trust; requiring reporting when a municipality, or any of a municipality’s boards, committees, or certain other municipal entities obtain certain information regarding misappropriation, fraud or violations of law relating to the public trust; requiring reporting when certain professional and occupational boards of the state obtain certain information regarding misappropriation, fraud or violations of law relating to the public trust; and clarifying that the reporting requirements do not prevent, relieve or replace a report to law-enforcement where appropriate or warranted.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §7-1-16, that said code be amended by adding thereto a new section, designated §8-9-4, and that said code be amended by adding thereto a new section, designated §30-1-5a, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-16. Reporting of fraud and misappropriation of funds.

(a) Whenever a county commission, or any of a county’s boards, committees, or any other entities of any kind or nature authorized in this chapter, obtains information that an employee, officer or member of the county commission, or any of a county’s boards, committees, or any other entities of any kind or nature authorized in this chapter may have misappropriated funds, engaged in fraud, or otherwise violated a law relating to the public trust, the county commission, or the county’s board, committee, or other entity authorized in this chapter shall timely report such
§8-9-4. Reporting of fraud and misappropriation of funds.

(a) Whenever a governing body of a municipality, or any of a municipality’s boards, committees, or any other entities of any kind or nature authorized in this chapter, obtains information that an employee, officer or member of municipality, or any of a municipality’s boards, committees, or any other entities of any kind or nature authorized in this chapter may have misappropriated funds, engaged in fraud, or otherwise violated a law relating to the public trust, the municipality, or any of a municipality’s board, committee, or any other entity authorized in this chapter shall timely report such information or allegation in writing to the county prosecutor’s office.

(b) The reporting of such information under subsection (a) of this section shall not prevent, relieve or replace a report to a law-enforcement agency, if appropriate or warranted.
board shall timely report such information or allegation in writing to the commission on special investigations, established in article five, chapter four of this code.

(b) The reporting of such information under subsection (a) of this section shall not prevent, relieve or replace a report to a law-enforcement agency, if appropriate or warranted.

CHAPTER 212

(Com. Sub. for S. B. 214 - By Senator Trump)

[Passed April 3, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 11, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §39-6-1, §39-6-2, §39-6-3, §39-6-4, §39-6-5, §39-6-6, §39-6-7, §39-6-8, §39-6-9, §39-6-10 and §39-6-11, all relating to adopting the Uniform Electronic Legal Material Act; providing a short title; providing applicability to legal materials designated official; designating legal material in official records; providing for authentication of electronic records; addressing effects of authentication, providing for preservation and security of legal material in official electronic record; providing for public access to legal materials in electronic records; creating standards for preservation and authentication; providing uniformity of application and construction; and addressing its effect on the Electronic Signatures in Global and National Commerce Act.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §39-6-1,
§39-6-2, §39-6-3, §39-6-4, §39-6-5, §39-6-6, §39-6-7, §39-6-8, §39-6-9, §39-6-10 and §39-6-11, all to read as follows:

ARTICLE 6.  UNIFORM ELECTRONIC LEGAL MATERIAL ACT.

§39-6-1.  Short title.

1  This article may be cited as the Uniform Electronic Legal Material Act.

§39-6-2.  Definitions.

1  In this article:

2       (1) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

3       (2) “Legal material” means, whether or not in effect:

4           (A) The West Virginia Constitution;

5           (B) The Acts of the Legislature;

6           (C) The Code of West Virginia;

7           (D) All rules and other materials filed in the State Register; or

8           (E) The state administrative agency decisions made pursuant to articles four and five, chapter twenty-nine-a of this code.

9       (3) “Official publisher” means:

10           (A) For the Constitution of West Virginia, the State Legislature;

11           (B) For the Acts of the Legislature, the Clerk of the House of Delegates;
(C) For the Code of West Virginia, the State Legislature;

(D) For a rule published in the State Register, the Secretary of State; or

(E) For a state administrative agency decision, that state agency.

(4) “Publish” means to display, present or release to the public, or cause to be displayed, presented or released to the public, by the official publisher.

(5) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

§39-6-3. Applicability.

This article applies to all legal material in an electronic record that is designated as official under section four of this article and is first published electronically on or after the effective date of this article.

§39-6-4. Legal material in official electronic record.

(a) If an official publisher publishes legal material only in an electronic record, the publisher shall:

(1) Designate the electronic record as official; and

(2) Comply with sections five, seven and eight of this article.

(b) An official publisher that publishes legal material in an electronic record and also publishes the material in a record other than an electronic record may designate the
§39-6-5. Authentication of official electronic record.

An official publisher of legal material in an electronic record that is designated as official under section four of this article shall authenticate the record. To authenticate an electronic record, the publisher shall provide a method for a user to determine that the record received by the user from the publisher is unaltered from the official record published by the publisher.

§39-6-6. Effect of authentication.

(a) Legal material in an electronic record that is authenticated under section five of this article is presumed to be an accurate copy of the legal material.

(b) If another state has adopted a law substantially similar to this article, legal material in an electronic record that is designated as official and authenticated by the official publisher in that state is presumed to be an accurate copy of the legal material.

(c) A party contesting the authentication of legal material in an electronic record authenticated under section five of this article has the burden of proving by a preponderance of the evidence that the record is not authentic.


(a) An official publisher of legal material in an electronic record that is or was designated as official under section four shall provide for the preservation and security of the record in an electronic form or a form that is not electronic.
(b) If legal material is preserved under subsection (a) in an electronic record, the official publisher shall:

(1) Ensure the integrity of the record;

(2) Provide for backup and disaster recovery of the record; and

(3) Ensure the continuing usability of the material.

§39-6-8. Public access to legal material in official electronic record.

An official publisher of legal material in an electronic record that is required to be preserved under section seven of this article shall ensure that the material is reasonably available for use by the public on a permanent basis at no cost.


In implementing this article, an official publisher of legal material in an electronic record shall consider:

(1) Standards and practices of other jurisdictions;

(2) The most recent standards regarding authentication of, preservation and security of, and public access to, legal material in an electronic record and other electronic records, as promulgated by national standard-setting bodies;

(3) The needs of users of legal material in an electronic record;

(4) The views of governmental officials and entities and other interested persons; and

(5) To the extent practicable, methods and technologies for the authentication of, preservation and security of, and public access to, legal material which are compatible with the methods and technologies used by other official publishers in this state and in other states that have adopted a law substantially similar to this article.
§39-6-10. Uniformity of application and construction.

1 In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.


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

CHAPTER 213

(Com. Sub. for S. B. 602 - By Senator Blair)

[Passed April 7, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 25, 2017.]

AN ACT to amend and reenact §47-8-2 and §47-8-3 of the Code of West Virginia, 1931, as amended, all relating to registering and indexing of fictitious names used by sole proprietors, individuals, or general partnerships; striking exemptions; and providing that the Secretary of State shall keep a searchable database for all persons filing forms to register and index fictitious names.

Be it enacted by the Legislature of West Virginia:

That §47-8-2 and §47-8-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:
ARTICLE 8. TRADE NAMES.

§47-8-2. Business not to be conducted under assumed name without filing certificate of true name.

1 No individual, sole proprietorship or general partnership may carry on, conduct or transact any business in this state under any assumed name, or under any designation, name or style, corporate or otherwise, other than the real name or names of the individual or individuals owning, conducting or transacting such business, unless that person or persons shall file with the Secretary of State a form setting forth the name under which such business is, or is to be, conducted or transacted, and the true or real full name or names of the person or persons owning, conducting or transacting the same, with the home and post office address or addresses of such person or persons. Such form shall be executed and duly acknowledged by the person or persons so owning, conducting or intending to conduct such business.

§47-8-3. Indexing of forms filed with Secretary of State.

1 The Secretary of State shall keep a searchable database of all persons filing forms provided for in this article.

CHAPTER 214

(Com. Sub. for S. B. 402 - By Senators Takubo, Stollings and Romano)

[Passed April 7, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 26, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-11E-1, §47-11E-2, §47-11E-3, §47-11E-4 and §47-11E-5, all relating to covenants not to compete between physicians and hospitals;
defining terms; setting forth limitation on contractual provisions; providing for enforceability of other contract terms; providing for exemptions; and setting forth an effective date.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §47-11E-1, §47-11E-2, §47-11E-3, §47-11E-4 and §47-11E-5, all to read as follows:

ARTICLE 11E. PHYSICIANS FREEDOM OF PRACTICE ACT.

§47-11E-1. Definitions.

1 As used in this article:

2 “Contract” means a written agreement between a physician and an employer.

3 “Covenant not to compete” means any contract that restricts the right of a physician to practice medicine in any geographic area of the state for any period of time following the expiration of the physician’s contract with his or her employer, or upon the termination of the physician’s contract by the physician’s employer.

4 “Employer” means any person employing at least one individual in the state or any agent of an employer employing at least one individual in the state.

5 “Person” means any individual, proprietorship, partnership, firm, association, corporation, labor organization, limited liability corporation or any other legal entity.

6 “Physician” means a doctor of allopathic or osteopathic medicine who is fully licensed to practice medicine and surgery pursuant to the provisions of either article three or fourteen, chapter thirty of this code.
§47-11E-2. Limitation on contractual provisions in physician employment contract.

(a) A covenant not to compete contained in a contract between a physician and an employer shall be limited to not more than:

(1) One year in duration; and

(2) Thirty road miles from the physician’s primary place of practice with the employer.

(b) A covenant not to compete shall be void and unenforceable upon the termination of the physician’s employment by the employer.

§47-11E-3. Enforceability of other provisions.

Provided that the contract does not state otherwise, nothing in this article limits the enforceability of:

(1) Provisions prohibiting a physician from taking any property, patient lists or records of the employer with him or her upon the termination or expiration of the contract;

(2) Provisions requiring a physician to repay an employer all or a portion of:

(A) A loan;

(B) Relocation expenses;

(C) A signing bonus;

(D) Remuneration to induce the physician to relocate or establish a physician practice in a specific geographic area; or

(E) Recruiting, education and training expenses;

(3) A nondisclosure provision relating to confidential information and trade secrets;
(4) A nonsolicitation provision with respect to patients and employees of the employer;
(5) A provision for liquidated damages; or
(6) Any other provision of a contract that is not in violation of law.

§47-11E-4. Exemptions to limitations.

The limitations set forth in this article do not apply to any of the following unless the contract terms provide otherwise:

(1) In the case where the physician has sold his or her business or practice in the form of a sale of assets, stock, membership interests or otherwise to his or her employer; or

(2) To contracts between physicians who are shareholders, owners, partners, members or directors of a health care practice.

§47-11E-5. Applicability.

This article applies to any contract between a physician and his or her employer entered into, modified, renewed or extended on or after July 1, 2017: Provided, That the provisions of this article do not otherwise apply to or abrogate any contract in effect on or before June 30, 2017.

CHAPTER 215

(Com. Sub. for H. B. 2961 - By Delegates Nelson and Boggs)
[By Request of the Tax and Revenue Department]

[Passed April 6, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 25, 2017.]
reenact §47-21-21 and §47-21-30 of said code, all relating to creating a process by which parties may appeal certain administrative actions taken by the Tax Commissioner, affecting certain charitable bingo or charitable raffle licensees, to the Office of Tax Appeals.

Be it enacted by the Legislature of West Virginia:

That §47-20-23 and §47-20-31 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §47-21-21 and §47-21-30 of said code be amended and reenacted, all to read as follows:

ARTICLE 20. CHARITABLE BINGO.

§47-20-23. Administration; Rules and Regulations.

(a) The Tax Commissioner shall administer the provisions of this article in accordance with the provisions of this article and chapter twenty-nine-a of this code.

(b) The commissioner shall deny an application for a license if he finds that the issuance thereof would be in violation of the provisions of this article.

(c) The commissioner may revoke, suspend or refuse to renew a license if the licensee or any member of a licensee organization has been convicted pursuant to section eighteen or nineteen of this article and the commissioner finds that it would be in the public interest to do so; or if the licensee has violated any of the provisions of this article: Provided, That before revoking or suspending a license issued under the authority of this article, the commissioner shall give at least ten days, three days for a limited occasion or state fair license, notice to the licensee. Notice shall be in writing, shall state the reason for revocation or suspension and shall inform the licensee of its right to petition the Office of Tax Appeals for a hearing at which the licensee may show cause why the license should not be revoked or suspended. Notice shall be sent by certified mail to the address of the licensee or served by certified mail or by
personal or substituted service on the person who applied for the license on behalf of the licensee. The licensee may, at the time designated for the hearing, produce evidence in its behalf and be represented by counsel. A decision of the Office of Tax Appeals upholding, in whole or in part, the revoking or suspending of a license is subject to judicial review as provided in section nineteen, article ten-a, chapter eleven of this code.

(d) The commissioner may suspend, revoke or refuse to renew any license issued hereunder for a material failure to maintain the records or file the reports required by this article if the commissioner finds that said failure will substantially impair the commissioner’s ability to administer the provisions of this article with regard to said licensee.

(e) The commissioner shall promulgate reasonable rules and regulations necessary to the administration of this article.

(f) The provisions of article five, chapter twenty-nine-a of this code apply to the denial, revocation, suspension of or refusal to renew a license hereunder.

(g) The burden of proof in any administrative or court proceeding is on the applicant to show cause why a bingo license should be issued or renewed and on the licensee to show cause why its license should not be revoked or suspended.

(h) Notwithstanding any other provision of this article, the commissioner may issue an emergency order suspending a bingo license in the following manner:

(1) An emergency order may be issued only when the commissioner believes that:

(a) There has been a criminal violation of this article;
(b) Such action is necessary to prevent a criminal violation of this article; or

(c) Such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare.

(2) The emergency order shall set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating such action. This order shall be served by personal or substituted service on the licensee or the person who applied for the license on behalf of the licensee.

(3) The emergency order is effective immediately upon issuance and service upon the licensee.

(4) Within five days after issuance of an emergency order, the licensee may petition the Office of Tax Appeals to set a time and place for a hearing wherein the licensee may appear and show cause why its license should not be revoked.

§47-20-31. Additional remedies for the commissioner; administrative procedures; deposit of money penalties.

(a) Additional remedies. — Notwithstanding any provision of this article to the contrary, the commissioner may:

(1) Revoke or refuse to renew any license issued under this article for any material violation of the provisions of this article or legislative rules of the commissioner promulgated for this article;

(2) Suspend the license of any licensee for the period of time the commissioner deems appropriate, not to be less than one week nor more than twelve months, for any material violation of the provisions of this article or legislative rule of the commissioner promulgated for this article;
(3) Place a licensee on probation for not less than six months nor more than five years: Provided, That in the event a licensee is placed on probation, as a condition of the probation, the licensee shall pay to the commissioner a probation supervision fee in an amount equal to two percent of the gross proceeds derived by the licensee from the conduct of bingo occasions during the period of the suspension, but, in no event, may the probation supervision fee be less than $2,000. All probation supervision fee revenue shall be placed in a special account and used by the commissioner, after appropriation by the Legislature, to offset the expenses and costs incurred by the Tax Division to supervise the licensee;

(4) Require a licensee to replace any officer who knew or should have known of a material violation of the provisions of this article or legislative rules of the commissioner promulgated for this article;

(5) Require a licensee to prohibit one or more members, supporters, volunteers or employees of the licensee involved in acts of material violation of the provisions of this article or legislative rules of the commissioner promulgated for this article, from all future bingo occasions held under the license, or for the period of time specified by the commissioner;

(6) Impose a civil money penalty in an amount not less than $100 nor more than two times the annual gross proceeds derived by the licensee, for each material violation of the provisions of this article or legislative rules of the commissioner: Provided, That in setting any monetary penalty for a first offense, the commissioner shall take into consideration the ability of the licensee to continue to exist and operate. For each material violation which is a second or subsequent offense, the amount of the civil penalty that may be imposed may not be less than $500 and may not exceed two times the annual gross proceeds of the licensee. Application of this subdivision and the amount of civil money penalty levied shall be determined in accordance
with a legislative rule promulgated by the commissioner pursuant to article three, chapter twenty-nine-a of this code. The commissioner may file this rule as an emergency rule. Any licensee aggrieved by the amount of the civil penalty may surrender its license, or, after exhausting all administrative remedies, have the matter reviewed in the circuit court of the county where the offense giving rise to the civil penalty occurred; or

(7) Order any one or more, or any combination, of the penalties provided for in subdivisions (1) through (6) of this subsection: Provided, That no sanctions or other remedy shall be imposed under this article on a licensee which is exempt or qualified to be exempt from federal income taxation under subsection 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended, but does not have bona fide members, due to failure to operate bingo occasions with members if the occasions are or were operated by residents of this state who have been employed by the licensee or been meaningfully associated with the licensee for one or more years before the date of the licensee’s application for a license under this article, or its last application for renewal of a license under this article.

(b) Administrative procedures.

(1) An order issued under this section shall be served by certified mail or in the manner provided in rule 4(d) of the West Virginia rules of civil procedure for trial courts of record, as amended.

(2) A licensee may appeal an order of the commissioner issued under this section by petitioning the Office of Tax Appeals within twenty days after the licensee is served with a copy of the order.

(3) When a petition is filed timely, the provisions of article ten-a, chapter eleven of this code shall apply.
(4) The burden of proof in any administrative or court proceeding is on the licensee to show cause why the order of the commissioner under this section should be modified, in whole or in part, or set aside.

(c) Deposit of money penalties. — All fines, money penalties and fees imposed pursuant to this section, except the probation supervision fee imposed by subdivision (3), subsection (a) of this section, shall be deposited into the General Revenue Fund of this state.

ARTICLE 21. CHARITABLE RAFFLES.

§47-21-21. Administration; rules and regulations.

(a) The commissioner shall promulgate rules and regulations to administer the provisions of this article in accordance with the provisions of chapter twenty-nine-a of this code.

(b) The commissioner shall deny an application for a license or modification thereof if he finds that the issuance thereof would be in violation of the provisions of this article.

(c) The commissioner may revoke, suspend or refuse to renew a license if the licensee or any member of a licensee organization has been convicted pursuant to section eighteen or nineteen of this article and the commissioner finds that it would be in the public interest to do so; or if the licensee has violated any of the provisions of this article: Provided, That before revoking or suspending a license issued under the authority of this article, the commissioner shall give at least ten days, three days for a limited occasion license, notice to the licensee. Notice shall be in writing, state the reason for revocation or suspension and inform the licensee of its right to petition the Office of Tax Appeals for a hearing at which the licensee may show cause why the license should not be revoked or suspended. The notice required by this section shall be by personal or substituted service, in accordance with the West Virginia rules of civil procedure for trial courts of record, on the person who
applied for the license on behalf of the licensee. The licensee may, at the time designated for the hearing, present evidence in its behalf and be represented by counsel. A decision of the Office of Tax Appeals upholding in whole or in part the revoking or suspending a license is subject to judicial review as provided in section nineteen, article ten-a, chapter eleven of this code.

(d) The commissioner may suspend, revoke or refuse to renew any license issued hereunder for a material failure to maintain the records or file the reports required by this article if the commissioner finds that said failure will substantially impair the commissioner’s ability to administer the provisions of this article with regard to such licensee.

(e) The commissioner shall promulgate reasonable rules and regulations necessary to the administration of this article.

(f) The provisions of article five, chapter twenty-nine-a of this code apply to the denial, revocation, suspension of or refusal to renew a license hereunder.

(g) The burden of proof in any administrative or court proceeding is on the applicant to show cause why a raffle license should be issued or renewed and on the licensee to show cause why its license should not be revoked or suspended.

(h) Notwithstanding any other provision of this article, the commissioner may issue an emergency order suspending a raffle license under the following circumstances and in the following manner:

(1) An emergency order may be issued only when the commissioner believes that:

(i) There has been a criminal violation of this article;
57    (ii) Such action is necessary to prevent a criminal
58    violation of this article; or
59    (iii) Such action is necessary for the immediate
60    preservation of the public peace, health, safety, morals,
61    good order or general welfare.
62    (2) The emergency order shall set forth the grounds
63    upon which it is issued, including a statement of facts
64    constituting the alleged emergency necessitating such
65    action. This order shall be served by personal or substituted
66    service on the licensee or the person who applied for the
67    license on behalf of the licensee.
68    (3) The emergency order is effective immediately upon
69    issuance and service upon the licensee.
70    (4) Within five days after issuance of an emergency
71    order, the licensee may petition the Office of Tax Appeals
72    to set a time and place for a hearing wherein the licensee
73    may appear and show cause why its license should not be
74    revoked.

§47-21-30. Additional remedies for the commissioner; 
administrative procedures; deposit of money penalties.

1    (a) Additional remedies. — Notwithstanding any
2    provision of this article to the contrary, the commissioner
3    may:

4    (1) Revoke or refuse to renew any license issued under
5    this article for any material violation of the provisions of
6    this article or legislative rules of the commissioner
7    promulgated for this article;

8    (2) Suspend the license of any licensee for the period of
9    time the commissioner deems appropriate, not to be less
10    than one week nor more than twelve months, for any
11    material violation of the provisions of this article or
12    legislative rule of the commissioner promulgated for this
13    article;
(3) Place a licensee on probation for not less than six months nor more than five years: Provided, That in the event a licensee is placed on probation, as a condition of the probation, the licensee shall pay to the commissioner a probation supervision fee in an amount equal to two percent of the gross proceeds derived by the licensee from the conduct of raffle occasions during the period of the suspension, but, in no event, may the probation supervision fee be less than $2,000. All probation supervision fee revenue shall be placed in a special account and used by the commissioner, after appropriation by the Legislature, to offset the expenses and costs incurred by the Tax Division to supervise the licensee;

(4) Require a licensee to replace any officer who knew or should have known of a material violation of the provisions of this article or legislative rules of the commissioner promulgated for this article;

(5) Require a licensee to prohibit one or more members, supporters, volunteers or employees of the licensee involved in acts of material violation of the provisions of this article or legislative rules of the commissioner promulgated for this article, from all future raffle occasions held under the license, or for the period of time specified by the commissioner;

(6) Impose a civil money penalty in an amount not less than $100 nor more than two times the annual gross proceeds derived by the licensee, for each material violation of the provisions of this article or legislative rules of the commissioner: Provided, That in setting any monetary penalty for a first offense, the commissioner shall take into consideration the ability of the licensee to continue to exist and operate. For each material violation which is a second or subsequent offense, the amount of the civil penalty that may be imposed may not be less than $500 and may not exceed two times the annual gross proceeds of the licensee. Application of this subdivision and the amount of civil money penalty levied shall be determined in accordance
Ch. 215]  REGULATION OF TRADE  1955

51 with a legislative rule promulgated by the commissioner
52 pursuant to article three, chapter twenty-nine-a of this code.
53 The commissioner may file this rule as an emergency rule.
54 Any licensee aggrieved by the amount of the civil penalty
55 may surrender its license, or, after exhausting all
56 administrative remedies, have the matter reviewed in the
57 circuit court of the county where the offense giving rise to
58 the civil penalty occurred; or

59 (7) Order any one or more, or any combination, of the
60 penalties provided for in subdivisions (1) through (6) of this
61 subsection:  Provided, That no sanctions or other remedy
62 shall be imposed under this article on a licensee which is
63 exempt or qualified to be exempt from federal income
64 taxation under subsection 501(c)(3)or 501(c)(4)of the
65 Internal Revenue Code of 1986, as amended, but does not
66 have bona fide members, due to failure to operate raffle
67 occasions with members if the occasions are or were
68 operated by residents of this state who have been employed
69 by the licensee or been meaningfully associated with the
70 licensee for one or more years before the date of the
71 licensee’s application for a license under this article, or its
72 last application for renewal of a license under this article.

73 (b) Administrative procedures.

74 (1) An order issued under this section shall be served by
75 certified mail or in the manner provided in rule 4(d) of the
76 West Virginia rules of civil procedure for trial courts of
77 record, as amended.

78 (2) A licensee may appeal an order of the commissioner
79 issued under this section by petitioning the Office of Tax
80 Appeals within twenty days after the licensee is served with
81 a copy of the order.

82 (3) When a petition is filed timely, the provisions of
83 article ten-a, chapter eleven of this code shall apply.
(4) The burden of proof in any administrative or court proceeding is on the licensee to show cause why the order of the commissioner under this section should be modified, in whole or in part, or set aside.

(c) Deposit of money penalties. — All fines, money penalties and fees imposed pursuant to this section, except the probation supervision fee imposed by subdivision (3), subsection (a) of this section, shall be deposited into the General Revenue Fund of this state.

CHAPTER 216


[Passed April 4, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 11, 2017.]

AN ACT to amend and reenact §5-10-27b of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14D-9b of said code; to amend and reenact §8-22A-11 of said code; to amend and reenact §15-2-45 of said code; to amend and reenact §15-2A-6b of said code; to amend and reenact §16-5V-13 of said code; to amend and reenact §18-7A-28b of said code; to amend and reenact §18-7B-12a of said code; and to amend and reenact §51-9-12b of said code, all relating to required minimum distribution of retirement benefits of plans administered by the Consolidated Public Retirement Board; providing for treatment of benefits in the event of a member’s death; and bringing code into conformity with federal law.

Be it enacted by the Legislature of West Virginia:

That §5-10-27b of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §7-14D-9b of said code
be amended and reenacted; that §8-22A-11 of said code be amended and reenacted; that §15-2-45 of said code be amended and reenacted; that §15-2A-6b of said code be amended and reenacted; that §16-5V-13 of said code be amended and reenacted; that §18-7A-28b of said code be amended and reenacted; that §18-7B-12a of said code be amended and reenacted; and that §51-9-12b of said code be amended and reenacted, all to read as follows:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-27b. Federal law minimum required distributions.

1 The requirements of this section apply to any distribution of a member’s or beneficiary’s interest and take precedence over any inconsistent provisions of this code.
2 This provision applies to plan years beginning after December 31, 1986. Notwithstanding anything in this code to the contrary, the payment of benefits under this article shall be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder as applicable to governmental plans. Any term used in this article has the same meaning as when used in a comparable context in Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder unless a different meaning is clearly required by the context or definition in this article. The following provisions apply to payments of benefits required under this article:

17 (a) The payment of benefits under the retirement system to any member shall be distributed to him or her not later than the required beginning date, or be distributed to him or her commencing not later than the required beginning date,
in accordance with regulations prescribed under Section 401(a)(9) of the Internal Revenue Code, over the life of the member or over the lives of the member and his or her beneficiary or over a period not extending beyond the life expectancy of the member and his or her beneficiary: Provided, That the requirements of this section shall not be construed to grant a right to a form of benefit which is not otherwise available to a particular member under this retirement system. Benefit payments under this section shall not be delayed pending, or contingent upon, receipt of an application for retirement from the member.

(b) If a member dies after distribution to him or her has commenced pursuant to this section but before his or her entire interest in the retirement system has been distributed, then the remaining portion of that interest shall be distributed at least as rapidly as under the method of distribution being used at the date of his or her death.

c) If a member dies before distribution to him or her has commenced, then his or her entire interest in the retirement system is to be distributed by December 31 of the calendar year containing the fifth anniversary of the member’s death, unless the provisions of subsection (d) of this section apply.

d) If a member dies before distribution to him or her has commenced, and the member’s interest is eligible to be paid in the form of a survivor annuity to a designated beneficiary, distributions are to be made over the life of that beneficiary or over a period certain not greater than the life expectancy of that beneficiary, commencing on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is
receiving one hundred percent of the survivor benefit, distributions are to commence on or before the later of:

(A) December 31 of the calendar year in which the member would have attained age seventy and one-half; or

(B) December 31 of the calendar year immediately following the calendar year in which the member died.

e) If a member dies before distribution to him or her has commenced and the survivor annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section may elect to have life expectancy treatment apply to the distribution for purposes of determining whether any portion of the distribution is an eligible rollover distribution: Provided, That any such election shall not delay the required distribution of the deceased member’s entire interest in the retirement system beyond December 31 of the calendar year containing the fifth anniversary of the member’s death as required by subsection (c) of this section: Provided, however, that the election is timely made in a form acceptable to the board on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, election of life expectancy treatment must be made on or before the earlier of (A) or (B) below:

(A) The later of: (i) December 31 of the calendar year immediately following the calendar year in which the member died; or (ii) December 31 of the calendar year in which the member would have attained age seventy and one-half; or
(B) October 31 of the calendar year containing the fifth anniversary of the member’s death.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.

§7-14D-9b. Federal law minimum required distributions.

1 The requirements of this section apply to any distribution of a member’s or beneficiary’s interest and take precedence over any inconsistent provisions of this plan. This section applies to plan years beginning after December 31, 1986. Notwithstanding anything in the plan to the contrary, the payment of benefits under this article shall be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder as applicable to governmental plans. Any term used in this article has the same meaning as when used in a comparable context in Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder unless a different meaning is clearly required by the context or definition in this article. The following provisions apply to payments of benefits required under this article:

(a) The payment of benefits under the plan to any member shall be distributed to him or her not later than the required beginning date, or be distributed to him or her commencing not later than the required beginning date, in accordance with regulations prescribed under Section 401(a)(9) of the Internal Revenue Code, over the life of the member or over the lives of the member and his or her beneficiary or over a period not extending beyond the life expectancy of the member and his or her beneficiary: Provided, That the requirements of this section shall not be construed to grant a right to a form of benefit which is not otherwise available to a particular member under this retirement system. Benefit payments
under this section shall not be delayed pending, or contingent upon, receipt of an application for retirement from the member.

(b) If a member dies after distribution to him or her has commenced pursuant to this section but before his or her entire interest in the plan has been distributed, then the remaining portion of that interest shall be distributed at least as rapidly as under the method of distribution being used at the date of his or her death.

(c) If a member dies before distribution to him or her has commenced, then his or her entire interest in the retirement system is to be distributed by December 31 of the calendar year containing the fifth anniversary of the member’s death, unless the provisions of subsection (d) of this section apply.

(d) If a member dies before distribution to him or her has commenced, and the member’s interest is eligible to be paid in the form of a survivor annuity to a designated beneficiary, distributions are to be made over the life of that beneficiary or over a period certain not greater than the life expectancy of that beneficiary, commencing on or before the following:

1. December 31 of the calendar year immediately following the calendar year in which the member died; or

2. If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, distributions are to commence on or before the later of:

   A. December 31 of the calendar year in which the member would have attained age seventy and one-half; or

   B. December 31 of the calendar year immediately following the calendar year in which the member died.
(e) If a member dies before distribution to him or her has commenced and the survivor annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section may elect to have life expectancy treatment apply to the distribution for purposes of determining whether any portion of the distribution is an eligible rollover distribution: Provided, That any such election shall not delay the required distribution of the deceased member’s entire interest in the retirement system beyond December 31 of the calendar year containing the fifth anniversary of the member’s death as required by subsection (c) of this section: Provided, however, That the election is timely made in a form acceptable to the board on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, election of life expectancy treatment must be made on or before the earlier of (A) or (B) below:

(A) The later of: (i) December 31 of the calendar year immediately following the calendar year in which the member died; or (ii) December 31 of the calendar year in which the member would have attained age seventy and one-half; or

(B) October 31 of the calendar year containing the fifth anniversary of the member’s death.

CHAPTER 8. MUNICIPAL CORPORATIONS.
ARTICLE 22A - WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.


The requirements of this section apply to any distribution of a member’s or beneficiary’s interest and take precedence over any inconsistent provisions of this plan. This section applies to plan years beginning after December 31, 1986. Notwithstanding anything in the plan to the contrary, the payment of benefits under this article shall be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder as applicable to governmental plans. Any term used in this article has the same meaning as when used in a comparable context in Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder unless a different meaning is clearly required by the context or definition in this article.

The following provisions apply to payments of benefits required under this article:

(a) The payment of benefits under the plan to any member shall be distributed to him or her not later than the required beginning date, or be distributed to him or her commencing not later than the required beginning date, in accordance with regulations prescribed under Section 401(a)(9) of the Internal Revenue Code, over the life of the member or over the lives of the member and his or her beneficiary or over a period not extending beyond the life expectancy of the member and his or her beneficiary: Provided, That the requirements of this section shall not be construed to grant a right to a form of benefit which is not otherwise available to a particular member under this retirement system. Benefit payments under this section shall not be delayed pending, or contingent on, receipt of an application for retirement from the member.
(b) If a member dies after distribution to him or her has commenced pursuant to this section but before his or her entire interest in the plan has been distributed, then the remaining portion of that interest shall be distributed at least as rapidly as under the method of distribution being used at the date of his or her death.

(c) If a member dies before distribution to him or her has commenced, then his or her entire interest in the plan is to be distributed by December 31 of the calendar year containing the fifth anniversary of the member’s death, unless the provisions of subsection (d) of this section apply.

(d) If a member dies before distribution to him or her has commenced, and the member’s interest is eligible to be paid in the form of a survivor annuity to a designated beneficiary, distributions are to be made over the life of that beneficiary or over a period certain not greater than the life expectancy of that beneficiary, commencing on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, distributions are to commence on or before the later of:

(A) December 31 of the calendar year in which the member would have attained age seventy and one-half; or

(B) December 31 of the calendar year immediately following the calendar year in which the member died.

(e) If a member dies before distribution to him or her has commenced and the survivor annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary who is eligible to receive a
distribution pursuant to the provisions of subsection (c) of this section may elect to have life expectancy treatment apply to the distribution for purposes of determining whether any portion of the distribution is an eligible rollover distribution: Provided, That any such election shall not delay the required distribution of the deceased member’s entire interest in the retirement system beyond December 31 of the calendar year containing the fifth anniversary of the member’s death as required by subsection (c) of this section: Provided, however, That the election is timely made in a form acceptable to the board on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, election of life expectancy treatment must be made on or before the earlier of (A) or (B) below:

(A) The later of: (i) December 31 of the calendar year immediately following the calendar year in which the member died; or (ii) December 31 of the calendar year in which the member would have attained age seventy and one-half; or

(B) October 31 of the calendar year containing the fifth anniversary of the member’s death.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-45. Federal law minimum required distributions.

The requirements of this section apply to any distribution of a member’s or beneficiary’s interest and take precedence over any inconsistent provisions of this code.
This section applies to plan years beginning after December 31, 1986. Notwithstanding anything in the retirement system to the contrary, the payment of benefits under this article shall be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder as applicable to governmental plans. Any term used in this article has the same meaning as when used in a comparable context in Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder unless a different meaning is clearly required by the context or definition in this article. The following provisions apply to payments of benefits required under this article:

(a) The payment of benefits under the fund to any member shall be distributed to him or her not later than the required beginning date, or be distributed to him or her commencing not later than the required beginning date, in accordance with regulations prescribed under Section 401(a)(9) of the Internal Revenue Code, over the life of the member or over the lives of the member and his or her beneficiary, or over a period not extending beyond the life expectancy of the member and his or her beneficiary: Provided, That the requirements of this section may not be construed to grant a right to a form of benefit which is not otherwise available to a particular member under this retirement system. For purposes of this section, the term “required beginning date” means April 1 of the calendar year following the later of: (i) The calendar year in which the member attains age seventy and one-half; or (ii) the calendar year in which the member retires or otherwise ceases providing covered service under this fund. Benefit payments under this section shall not be delayed pending, or contingent upon, receipt of an application for retirement from the member.

(b) If a member dies after distribution to him or her has commenced pursuant to this section but before his or her entire interest in the retirement system has been distributed, then the remaining portion of that interest shall be
distributed at least as rapidly as under the method of
distribution being used at the date of his or her death.

(c) If a member dies before distribution to him or her
has commenced, then his or her entire interest in the fund is
to be distributed by December 31 of the calendar year
containing the fifth anniversary of the member’s death,
unless the provisions of subsection (d) of this section apply.

(d) If a member dies before distribution to him or her
has commenced, and the member’s interest is eligible to be
paid in the form of a survivor annuity to a designated
beneficiary, distributions are to be made over the life of that
beneficiary or over a period certain not greater than the life
expectancy of that beneficiary, commencing on or before
the following:

(1) December 31 of the calendar year immediately
following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either
the surviving spouse or a former spouse who, as an alternate
payee under a Qualified Domestic Relations Order, is
receiving one hundred percent of the survivor benefit,
distributions are to commence on or before the later of:

(A) December 31 of the calendar year in which the
member would have attained age seventy and one-half; or

(B) December 31 of the calendar year immediately
following the calendar year in which the member died.

(e) If a member dies before distribution to him or her
has commenced and the survivor annuity provisions of
subsection (d) of this section are not applicable, any
designated beneficiary who is eligible to receive a
distribution pursuant to the provisions of subsection (c) of
this section may elect to have life expectancy treatment
apply to the distribution for purposes of determining
whether any portion of the distribution is an eligible rollover
distribution: Provided, That any such election shall not
delay the required distribution of the deceased member’s entire interest in the retirement system beyond December 31 of the calendar year containing the fifth anniversary of the member’s death as required by subsection (c) of this section:

Provided, however, That the election is timely made in a form acceptable to the board on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, election of life expectancy treatment must be made on or before the earlier of (A) or (B) below:

(A) The later of: (i) December 31 of the calendar year immediately following the calendar year in which the member died; or (ii) December 31 of the calendar year in which the member would have attained age seventy and one-half; or

(B) October 31 of the calendar year containing the fifth anniversary of the member’s death.

ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.

§15-2A-6b. Federal law minimum required distributions.

The requirements of this section apply to any distribution of a member’s interest and take precedence over any inconsistent provisions of this retirement system. This section applies to plan years beginning after December 31, 1986. Notwithstanding anything in the retirement system to the contrary, the payment of benefits under this article shall be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder as applicable to governmental plans. Any term used in this article has the
same meaning as when used in a comparable context in Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder unless a different meaning is clearly required by the context or definition in this article. The following provisions apply to payments of benefits required under this article:

(a) The payment of benefits under the retirement system to any member shall be distributed to him or her not later than the required beginning date, or be distributed to him or her commencing not later than the required beginning date, in accordance with regulations prescribed under Section 401(a)(9) of the Internal Revenue Code, over the life of the member or over the lives of the member and his or her beneficiary or over a period not extending beyond the life expectancy of the member and his or her beneficiary: Provided, That the requirements of this section may not be construed to grant a right to a form of benefit which is not otherwise available to a particular member under this retirement system. Benefit payments under this section shall not be delayed pending, or contingent upon, receipt of an application for retirement from the member.

(b) If a member dies after distribution to him or her has commenced pursuant to this section but before his or her entire interest in the retirement system has been distributed, then the remaining portion of that interest shall be distributed at least as rapidly as under the method of distribution being used at the date of his or her death.

(c) If a member dies before distribution to him or her has commenced, then his or her entire interest in the retirement system is to be distributed by December 31 of the calendar year containing the fifth anniversary of the member’s death, unless the provisions of subsection (d) of this section apply.

(d) If a member dies before distribution to him or her has commenced, and the member’s interest is eligible to be paid in the form of a survivor annuity to a designated
beneficiary, distributions are to be made over the life of that beneficiary or over a period certain not greater than the life expectancy of that beneficiary, commencing on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, distributions are to commence on or before the later of:

(A) December 31 of the calendar year in which the member would have attained age seventy and one-half; or

(B) December 31 of the calendar year immediately following the calendar year in which the member died.

(e) If a member dies before distribution to him or her has commenced and the survivor annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section may elect to have life expectancy treatment apply to the distribution for purposes of determining whether any portion of the distribution is an eligible rollover distribution: Provided, That any such election shall not delay the required distribution of the deceased member’s entire interest in the retirement system beyond December 31 of the calendar year containing the fifth anniversary of the member’s death as required by subsection (c) of this section: Provided, however, That the election is timely made in a form acceptable to the board on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate
payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, election of life expectancy treatment must be made on or before the earlier of (A) or (B) below:

(A) The later of: (i) December 31 of the calendar year immediately following the calendar year in which the member died; or (ii) December 31 of the calendar year in which the member would have attained age seventy and one-half; or

(B) October 31 of the calendar year containing the fifth anniversary of the member’s death.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.


The requirements of this section apply to any distribution of a member’s or beneficiary’s interest and take precedence over any inconsistent provisions of this plan. This section applies to plan years beginning after December 31, 1986. Notwithstanding anything in the plan to the contrary, the payment of benefits under this article shall be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code and federal regulations promulgated thereunder as applicable to governmental plans. Any term used in this article has the same meaning as when used in a comparable context in Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder unless a different meaning is clearly required by the context or definition in this article. The following provisions apply to payments of benefits required under this article:

(a) The payment of benefits under the plan to any member shall be distributed to him or her not later than the required beginning date, or be distributed to him or her
commencing not later than the required beginning date, in accordance with regulations prescribed under Section 401(a)(9) of the Internal Revenue Code, over the life of the member or over the lives of the member and his or her beneficiary or over a period not extending beyond the life expectancy of the member and his or her beneficiary: Provided, That the requirements of this section may not be construed to grant a right to a form of benefit which is not otherwise available to a particular member under this retirement system. Benefit payments under this section shall not be delayed pending, or contingent upon, receipt of an application for retirement from the member.

(b) If a member dies after distribution to him or her has commenced pursuant to this section but before his or her entire interest in the plan has been distributed, then the remaining portion of that interest shall be distributed at least as rapidly as under the method of distribution being used at the date of his or her death.

(c) If a member dies before distribution to him or her has commenced, then his or her entire interest in the plan is to be distributed by December 31 of the calendar year containing the fifth anniversary of the member’s death, unless the provisions of subsection (d) of this section apply.

(d) If a member dies before distribution to him or her has commenced, and the member’s interest is eligible to be paid in the form of a survivor annuity to a designated beneficiary, distributions are to be made over the life of that beneficiary or over a period certain not greater than the life expectancy of that beneficiary, commencing on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is
receiving one hundred percent of the survivor benefit, distributions are to commence on or before the later of:

(A) December 31 of the calendar year in which the member would have attained age seventy and one-half; or

(B) December 31 of the calendar year immediately following the calendar year in which the member died.

(e) If a member dies before distribution to him or her has commenced and the survivor annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section may elect to have life expectancy treatment apply to the distribution for purposes of determining whether any portion of the distribution is an eligible rollover distribution: Provided, That any such election shall not delay the required distribution of the deceased member’s entire interest in the retirement system beyond December 31 of the calendar year containing the fifth anniversary of the member’s death as required by subsection (c) of this section:

Provided, however, That the election is timely made in a form acceptable to the board on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, election of life expectancy treatment must be made on or before the earlier of (A) or (B) below:

(A) The later of: (i) December 31 of the calendar year immediately following the calendar year in which the member died; or (ii) December 31 of the calendar year in which the member would have attained age seventy and one-half; or
(B) October 31 of the calendar year containing the fifth anniversary of the member’s death.

CHAPTER 18. EDUCATION.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-28b. Federal law minimum required distributions.

The requirements of this section apply to any distribution of a member’s or beneficiary’s interest and take precedence over any inconsistent provisions of this retirement system. This section applies to plan years beginning after December 31, 1986. Notwithstanding anything in the retirement system to the contrary, the payment of benefits under this article shall be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code and the regulations promulgated thereunder as applicable to governmental plans. Any term used in this article has the same meaning as when used in a comparable context in Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder unless a different meaning is clearly required by the context or definition in this article. The following provisions apply to payments of benefits required under this article:

(a) The payment of benefits under the retirement system to any member shall be distributed to him or her not later than the required beginning date, or be distributed to him or her commencing not later than the required beginning date, in accordance with regulations prescribed under Section 401(a)(9) of the Internal Revenue Code, over the life of the member or over the lives of the member and his or her beneficiary or over a period not extending beyond the life expectancy of the member and his or her beneficiary: Provided, That the requirements of this section may not be construed to grant a right to a form of benefit which is not otherwise available to a particular member under this retirement system. Benefit payments under this section shall
not be delayed pending, or contingent upon, receipt of an application for retirement from the member.

(b) If a member dies after distribution to him or her has commenced pursuant to this section but before his or her entire interest in the retirement system has been distributed, then the remaining portion of that interest shall be distributed at least as rapidly as under the method of distribution being used at the date of his or her death.

c) If a member dies before distribution to him or her has commenced, then his or her entire interest in the retirement system is to be distributed by December 31 of the calendar year containing the fifth anniversary of the member’s death, unless the provisions of subsection (d) of this section apply.

d) If a member dies before distribution to him or her has commenced, and the member’s interest is eligible to be paid in the form of a survivor annuity to a designated beneficiary, distributions are to be made over the life of that beneficiary or over a period certain not greater than the life expectancy of that beneficiary, commencing on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, distributions are to commence on or before the later of:

(A) December 31 of the calendar year in which the member would have attained age seventy and one-half; or

(B) December 31 of the calendar year immediately following the calendar year in which the member died.
(e) If a member dies before distribution to him or her has commenced and the survivor annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section may elect to have life expectancy treatment apply to the distribution for purposes of determining whether any portion of the distribution is an eligible rollover distribution: Provided, That any such election shall not delay the required distribution of the deceased member’s entire interest in the retirement system beyond December 31 of the calendar year containing the fifth anniversary of the member’s death as required by subsection (c) of this section: Provided, however, That the election is timely made in a form acceptable to the board on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, election of life expectancy treatment must be made on or before the earlier of (A) or (B) below:

(A) The later of: (i) December 31 of the calendar year immediately following the calendar year in which the member died; or (ii) December 31 of the calendar year in which the member would have attained age seventy and one-half; or

(B) October 31 of the calendar year containing the fifth anniversary of the member’s death.

ARTICLE 7B. TEACHERS’ DEFINED CONTRIBUTION RETIREMENT SYSTEM.

§18-7B-12a. Federal minimum required distributions.
The requirements of this section apply to any distribution of a member’s or beneficiary’s interest and take precedence over any inconsistent provisions of this defined contribution system. This section applies to plan years beginning after December 31, 1986. Notwithstanding anything in this system to the contrary, the payment of benefits under this article shall be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder as applicable to governmental plans, including without limitation the incidental death benefit provisions of Section 401(a)(9)(G) of the Internal Revenue Code and the regulations thereunder. Any term used in this article has the same meaning as when used in a comparable context in Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder unless a different meaning is clearly required by the context or definition in this article. The following provisions apply to payments of benefits required under this article:

(a) The payment of benefits under the defined contribution system to any member shall be distributed to him or her not later than the required beginning date, or be distributed to him or her commencing not later than the required beginning date, in accordance with regulations prescribed under Section 401(a)(9) of the Internal Revenue Code, over the life of the member or over the lives of the member and his or her beneficiary or over a period not extending beyond the life expectancy of the member and his or her beneficiary: Provided, That the requirements of this section may not be construed to grant a right to a form of benefit which are not otherwise available to a particular member under this retirement system. Benefit payments under this section shall not be delayed pending, or contingent upon, receipt of an application for retirement from the member.

(b) If a member dies after distribution to him or her has commenced pursuant to this section but before his or her entire interest in the system has been distributed, then the
remaining portion of that interest shall be distributed at least as rapidly as under the method of distribution being used at the date of his or her death.

(c) If a member dies before distribution to him or her has commenced, then his or her entire interest in the retirement system is to be distributed by December 31 of the calendar year containing the fifth anniversary of the member’s death, unless the provisions of subsection (d) of this section apply.

(d) If a member dies before distribution to him or her has commenced, and the member’s interest is eligible to be paid in the form of a survivor annuity to a designated beneficiary, distributions are to be made over the life of that beneficiary or over a period certain not greater than the life expectancy of that beneficiary, commencing on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, distributions are to commence on or before the later of:

(A) December 31 of the calendar year in which the member would have attained age seventy and one-half; or

(B) December 31 of the calendar year immediately following the calendar year in which the member died.

(e) If a member dies before distribution to him or her has commenced and the survivor annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section may elect to have life expectancy treatment apply to the distribution for purposes of determining
whether any portion of the distribution is an eligible rollover
distribution: Provided, That any such election shall not
delay the required distribution of the deceased member’s
entire interest in the retirement system beyond December 31
of the calendar year containing the fifth anniversary of the
member’s death as required by subsection (c) of this section:
Provided, however, That the election is timely made in a
form acceptable to the board on or before the following:

(1) December 31 of the calendar year immediately
following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either
the surviving spouse or a former spouse who, as an alternate
payee under a Qualified Domestic Relations Order, is
receiving one hundred percent of the survivor benefit,
election of life expectancy treatment must be made on or
before the earlier of (A) or (B) below:

(A) The later of: (i) December 31 of the calendar year
immediately following the calendar year in which the
member died; or (ii) December 31 of the calendar year in
which the member would have attained age seventy and
one-half; or

(B) October 31 of the calendar year containing the fifth
anniversary of the member’s death.

(f) For purposes of this section, any amount paid to a
child of a member will be treated as if it had been paid to
the surviving spouse of the member if the remaining amount
becomes payable to the surviving spouse when the child
reaches the age of majority.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF
COURTS OF RECORD.

§51-9-12b. Federal minimum required distributions.
The requirements of this section apply to any distribution of a member’s or beneficiaries’ interest and take precedence over any inconsistent provisions of this retirement system. This section applies to plan years beginning after December 31, 1986. Notwithstanding anything in the retirement system to the contrary, the payment of benefits under this article shall be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder as applicable to governmental plans. Any term used in this article has the same meaning as when used in a comparable context in Section 401(a)(9) of the Internal Revenue Code and the federal regulations promulgated thereunder unless a different meaning is clearly required by the context or definition in this article. The following provisions apply to payments of benefits required under this article:

(a) The payment of benefits under the retirement system to any member shall be distributed to him or her not later than the required beginning date, or be distributed to him or her commencing not later than the required beginning date, in accordance with regulations prescribed under Section 401(a)(9) of the Internal Revenue Code, over the life of the member or over the lives of the member and his or her beneficiary or over a period not extending beyond the life expectancy of the member and his or her beneficiary: Provided, That the requirements of this section may not be construed to grant a right to a form of benefit which is not otherwise available to a particular member under this retirement system. Benefit payments under this section shall not be delayed pending, or contingent upon, receipt of an application for retirement from the member.

(b) If a member dies after distribution to him or her has commenced pursuant to this section but before his or her entire interest in the retirement system has been distributed, then the remaining portion of that interest shall be distributed at least as rapidly as under the method of distribution being used at the date of his or her death.
(c) If a member dies before distribution to him or her has commenced, then his or her entire interest in the retirement system is to be distributed by December 31 of the calendar year containing the fifth anniversary of the member’s death, unless the provisions of subsection (d) of this section apply.

(d) If a member dies before distribution to him or her has commenced, and the member’s interest is eligible to be paid in the form of a survivor annuity to a designated beneficiary, distributions are to be made over the life of that beneficiary or over a period certain not greater than the life expectancy of that beneficiary, commencing on or before the following:

1. December 31 of the calendar year immediately following the calendar year in which the member died; or

2. If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, distributions are to commence on or before the later of:
   (A) December 31 of the calendar year in which the member would have attained age seventy and one-half; or
   (B) December 31 of the calendar year immediately following the calendar year in which the member died.

(e) If a member dies before distribution to him or her has commenced and the survivor annuity provisions of subsection (d) of this section are not applicable, any designated beneficiary who is eligible to receive a distribution pursuant to the provisions of subsection (c) of this section may elect to have life expectancy treatment apply to the distribution for purposes of determining whether any portion of the distribution is an eligible rollover distribution: Provided, That any such election shall not delay the required distribution of the deceased member’s entire interest in the retirement system beyond December 31 of the calendar year containing the fifth anniversary of the member’s death as required by subsection
(c) of this section: Provided, however, That the election is timely made in a form acceptable to the board on or before the following:

(1) December 31 of the calendar year immediately following the calendar year in which the member died; or

(2) If the member’s sole designated beneficiary is either the surviving spouse or a former spouse who, as an alternate payee under a Qualified Domestic Relations Order, is receiving one hundred percent of the survivor benefit, election of life expectancy treatment must be made on or before the earlier of (A) or (B) below:

(A) The later of: (i) December 31 of the calendar year immediately following the calendar year in which the member died; or (ii) December 31 of the calendar year in which the member would have attained age seventy and one-half; or

(B) October 31 of the calendar year containing the fifth anniversary of the member’s death.

CHAPTER 217

(S. B. 321 - By Senator Gaunch)

[Passed April 5, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 18, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10D-12, relating to employee information reported to the Consolidated Public Retirement Board; requiring employers to report all individuals employed; and specifying required minimum reporting requirements.

Be it enacted by the Legislature of West Virginia:
That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5-10D-12, to read as follows:

ARTICLE 10D. CONSOLIDATED PUBLIC RETIREMENT BOARD.

§5-10D-12. Employer reporting requirements.

Pursuant to its responsibility as a regulatory body, the Consolidated Public Retirement Board shall collect all information regarding individuals employed with a participating public employer of a retirement system administered pursuant to this article necessary to ensure compliance with retirement plan provisions. All participating public employers of a public retirement system administered pursuant to this article shall promptly report all individuals employed with the participating public employer to the board and include information regarding the individual including, but not limited to, the individual’s name, social security number, gross salary or compensation, rate of pay, hours or days worked or paid, type of pay (salary, hourly or per diem), employment contract period, job title, permanent or temporary employment, full-time or part-time employment, scheduled hours and benefit eligibility.
AN ACT to amend and reenact §17-2D-2 of the Code of West Virginia, 1931, as amended, relating to highway construction using the design-build program; changing maximum amounts that may be expended for projects using the design-build program for highway construction and making certain exceptions to expenditure limits.

Be it enacted by the Legislature of West Virginia:

That §17-2D-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2D. HIGHWAY DESIGN-BUILD PILOT PROGRAM.

§17-2D-2. Highway Design-Build Program.

(a) Notwithstanding any provision of this code to the contrary, the Commissioner of the West Virginia Division of Highways may expedite the construction of projects by combining the design and construction elements of a highway or bridge project into a single contract as provided in this article.

(b) The Division of Highways may expend no more than $50 million in each year in the program: Provided, That if any of the $50 million is unused in one year, the
remaining amount may be applied to the following year’s amount: Provided, however, That the total aggregate
amount to be expended may not exceed $150 million in any one year: Provided further, That for fiscal years
beginning after June 30, 2017, the Division of Highways may expend no more than $200 million on any one
project: And provided further, That for fiscal years beginning after June 30, 2017, the Division of Highways
may expend no more than $400 million in each year in the program: And provided further, That for fiscal years
beginning after June 30, 2017, if any of the $400 million is unused in any year, the remaining amount may be
applied to the following year’s amount: And provided further, That for fiscal years beginning after June 30,
2017, the total aggregate amount to be expended may not exceed $500 million in any one year: And provided
further, That expenditures made for projects that are necessitated by a declared state of emergency within a
county that the Governor has included in a declaration of emergency are not to be included against the expenditure
limits provided in this subsection.

(c) A design-build project may be let to contract only in accordance with the commissioner’s established policies
and procedures concerning design-build projects.

(d) Projects receiving funding above the amount of federal core funding as appropriated to the state by formula
in a federal highway authorization, currently titled MAP-21, may utilize the program, but shall not be included in expenditure limits provided by subsection (b) of this section.
AN ACT to amend and reenact §17-17A-1 of the Code of West Virginia, 1931, as amended, relating to increasing the amount of authorized Federal Grant Anticipation Notes the Division of Highways may apply for from $200 million to $500 million.

Be it enacted by the Legislature of West Virginia:

That §17-17A-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 17A. CONSTRUCTION FINANCING FOR SURFACE TRANSPORTATION IMPROVEMENTS.

§17-17A-1. Purpose and scope.

This article is intended to facilitate the acquisition of right-of-way for, the construction of, the reconstruction of and the improvement or repair of any interstate or other highway, secondary road, bridge and toll road to be funded wholly or in part by amounts to be made available pursuant to the Federal Surface Transportation Assistance Act of one thousand nine hundred eighty-two, or from amounts to be made available pursuant to any other federal legislation, or from amounts specifically appropriated or dedicated therefor by the state, or from amounts which may be properly expended from the State Road Fund under article three, chapter seventeen of this code. This article authorizes notes, in an aggregate amount of outstanding notes not to
exceed $500 million, to be issued to provide financing for such projects in anticipation of reimbursement from such sources, but such notes will be special obligations of the state only, and will not be general obligations of the state or secured by any claim on the general credit or taxing powers of the state.

CHAPTER 220

(Com. Sub. for H. B. 2721 - By Mr. Speaker (Mr. Armstead) and Delegate Miley)
[By Request of the Executive]

[Passed April 8, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 24, 2017.]

AN ACT to amend and reenact §17-27-5 and §17-27-9 of the Code of West Virginia, 1931, as amended, all relating to the public-private transportation facilities act; reducing the cost threshold limitation on projects completed by the Division of Highways that are eligible for funding from the state road fund; and extending the time limitation by which agreements must be made.

Be it enacted by the Legislature of West Virginia:

That §17-27-5 and §17-27-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 27. PUBLIC-PRIVATE TRANSPORTATION FACILITIES ACT.

§17-27-5. Submission and review of conceptual proposals; approval by the Commissioner of Highways.

(a) A private entity may submit in writing a solicited conceptual proposal for a transportation facility to the
division for consideration. The conceptual proposal shall include the following:

(1) A statement of the private entity’s qualifications and experience;

(2) A description of the proposed transportation facility;

(3) A description of the financing for the transportation facility; and

(4) A statement setting forth the degree of public support for the proposed transportation facility, including a statement of the benefits of the proposed transportation facility to the public and its compatibility with existing transportation facilities.

(b) Following review by the division, the division shall submit to the Commissioner of Highways the conceptual proposals and priority ranking for review for final selection.

c) The conceptual proposal shall be accompanied by the following material and information unless waived by the division with respect to the transportation facility or facilities that the private entity proposes to develop as a qualifying transportation facility:

(1) A topographic map (1:2,000 or other appropriate scale) indicating the location of the transportation facility or facilities;

(2) A description of the transportation facility or facilities, including the conceptual design of the facility or facilities and all proposed interconnections with other transportation facilities;

(3) The projected total life-cycle cost of the transportation facility or facilities and the proposed date for acquisition of or the beginning of construction of, or improvements to, the transportation facility or facilities;
(4) A statement setting forth the method by which the developer proposes to secure all property interests required for the transportation facility or facilities: Provided, That with the approval of the division, the private entity may request that the comprehensive agreement assign the division with responsibility for securing all property interests, including public utility facilities, with all costs, including costs of acquiring the property, to be reimbursed to the division by the private entity. The statement shall include the following information regarding the property interests or rights, including, but not limited to, rights to extract mineable minerals:

(A) The names and addresses, if known, of the current owners of the property needed for the transportation facility or facilities;

(B) The nature of the property interests to be acquired;

(C) Any property that the division may expect to condemn; and

(D) The extent to which the property has been or will be subjected to the extraction of mineable minerals.

(5) Information relating to the current transportation plans, if any, of each affected local jurisdiction;

(6) A list of all permits and approvals required for acquisition or construction of or improvements to the transportation facility or facilities from local, state or federal agencies and a projected schedule for obtaining the permits and approvals: Provided, That the acquisition, construction, improvement or operation of a qualifying transportation facility that includes the extraction of mineable minerals is required to obtain all necessary permits or approvals from all applicable authorities in the same manner as if it were not a qualifying transportation facility under this article;

(7) A list of public utility facilities, if any, that will be crossed or affected by or as the result of the construction or
improvement of the public port transportation facility or facilities and a statement of the plans of the developer to accommodate the crossings or relocations;

(8) A statement setting forth the developer’s general plans for financing and operating the transportation facility or facilities;

(9) The names and addresses of the persons who may be contacted for further information concerning the request;

(10) Information about the developer, including, but not limited to, an organizational chart of the developer, capitalization of the developer, experience in the operation of transportation facilities and references and certificates of good standing from the Tax Commissioner, Insurance Commissioner and the Division of Unemployment Compensation evidencing that the developer is in good standing with state tax, workers’ compensation and unemployment compensation laws, respectively; and

(11) Any additional material and information requested by the Commissioner of Highways.

(d) The division, with approval of the Commissioner of Highways, may solicit proposals from private entities for the acquisition, construction or improvement of transportation facilities in a form and with the content determined by the division.

(e) The division may solicit any proposal for the acquisition, construction or improvement of the transportation facility or facilities as a qualifying transportation facility if it is determined that it serves the public purpose of this article. The division may determine that the acquisition, construction or improvement of the transportation facility or facilities as a qualifying transportation facility serves a public purpose if:
(1) There is a public need for the transportation facility of the type the private entity proposes to operate as a qualifying transportation facility;

(2) The transportation facility and the proposed interconnections with existing transportation facilities and the developer’s plans for development of the qualifying transportation facility are reasonable and compatible with the state transportation plan and with the local comprehensive plan or plans;

(3) The estimated cost of the transportation facility or facilities is reasonable in relation to similar facilities;

(4) The acquisition, construction, improvement or the financing of the transportation facility or facilities does not involve any moneys from the State Road Fund: Provided, That moneys from the State Road Fund may be used if the project is constructed by the division: is in excess of $10 million and is contained in the division’s six-year plan: Provided, however, That the moneys from the General Revenue Fund may also be used if so designated and approved by the Legislature.

(5) The use of federal funds in connection with the financing of a qualifying transportation facility has been determined by the division to be compatible with the state transportation plan and with the local comprehensive plan or plans; and

(6) The private entity’s plans will result in the timely acquisition or construction of or improvements to the transportation facility for their more efficient operation and that the private entity’s plans will result in a more timely and economical delivery of the transportation facility than otherwise available under existing delivery systems.

(f) Notwithstanding any provision of this article to the contrary, the recommendation of the division to the Commissioner of Highways is subject to:
134 (1) The private entity’s entering into a comprehensive agreement with the division; and

136 (2) With respect to transportation facilities, the requirement that public information dissemination with regard to any proposal under consideration comply with the division’s policy on the public involvement process, as revised.

141 (g) In connection with its approval of the development of the transportation facility as a qualifying transportation facility, the division shall establish a date for the acquisition of or the beginning of construction of or improvements to the qualifying transportation facility. The division may extend that date.

147 (h) Selection by the Commissioner of Highways:

148 (1) Upon presentations of proposals received by the division, the commissioner shall make his or her decision for the project.

151 (2) The commissioner shall notify the division and the public of the final selection for the project.


1 (a) Prior to acquiring, constructing or improving the qualifying transportation facility, the developer shall enter into a comprehensive agreement with the division. The comprehensive agreement shall provide for:

5 (1) Delivery of performance or payment bonds in connection with the construction of or improvements to the qualifying transportation facility, in the forms and amounts satisfactory to the division;

9 (2) Review and approval of the final plans and specifications for the qualifying transportation facility by the division;
(3) Inspection of the construction of or improvements to the qualifying transportation facility to ensure that they conform to the engineering standards acceptable to the division;

(4) Maintenance of a policy or policies of public liability insurance or self insurance, in a form and amount satisfactory to the division and reasonably sufficient to insure coverage of tort liability to the public and employees and to enable the continued operation of the qualifying transportation facility: Provided, That in no event may the insurance impose any pecuniary liability on the state, its agencies or any political subdivision of the state. Copies of the policies shall be filed with the division accompanied by proofs of coverage;

(5) Monitoring of the maintenance and operating practices of the developer by the division and the taking of any actions the division finds appropriate to ensure that the qualifying transportation facility is properly maintained and operated;

(6) Itemization and reimbursement to be paid to the division for the review and any services provided by the division;

(7) Filing of appropriate financial statements on a periodic basis;

(8) A reasonable maximum rate of return on investment for the developer;

(9) The date of termination of the developer’s duties under this article and dedication to the division; and

(10) That a transportation facility shall accommodate all public utilities on a reasonable, nondiscriminatory and completely neutral basis and in compliance with the provisions of section seventeen-b, article four, chapter seventeen of this code.
(b) The comprehensive agreement may require user fees established by agreement of the parties. Any user fees shall be set at a level that, taking into account any service payments, allows the developer the rate of return on its investment specified in the comprehensive agreement: Provided, That the schedule and amount of the initial user fees to be imposed and any increase of the user fees must be approved by the Commissioner of the Division of Highways. A copy of any service contract shall be filed with the division. A schedule of the current user fees shall be made available by the developer to any member of the public upon request. In negotiating user fees under this section, the parties shall establish fees that are the same for persons using the facility under like conditions and that will not unreasonably discourage use of the qualifying transportation facility. The execution of the comprehensive agreement or any amendment to the comprehensive agreement constitutes conclusive evidence that the user fees provided in the comprehensive agreement comply with this article. User fees established in the comprehensive agreement as a source of revenues may be in addition to, or in lieu of, service payments.

(c) In the comprehensive agreement, the division may agree to accept grants or loans from the developer, from time to time, from amounts received from the state or federal government or any agency or instrumentality of the state or federal government.

(d) The comprehensive agreement shall incorporate the duties of the developer under this article and may contain any other terms and conditions that the division determines serve the public purpose of this chapter. Without limitation, the comprehensive agreement may contain provisions under which the division agrees to provide notice of default and cure rights for the benefit of the developer and the persons specified in the comprehensive agreement as providing financing for the qualifying transportation facility. The comprehensive agreement may contain any other lawful terms and conditions.
82 to which the developer and the division mutually agree, 
83 including, without limitation, provisions regarding 
84 unavoidable delays or provisions providing for a loan of public 
85 funds to the developer to acquire, construct or improve one or 
86 more qualifying transportation facilities.

87 (e) The comprehensive agreement shall require the deposit 
88 of any earnings in excess of the maximum rate of return as 
89 negotiated in the comprehensive agreement in the State Road 
90 Fund established pursuant to section one, article three, chapter 
91 seventeen of this code.

92 (f) Any changes in the terms of the comprehensive 
93 agreement, agreed upon by the parties, shall be added to the 
94 comprehensive agreement by written amendment.

95 (g) Notwithstanding any provision of this article to the 
96 contrary, the division may not enter any comprehensive 

98 (h) Notwithstanding any provision of this article to the 
99 contrary, at least thirty days prior to execution, the 
100 commissioner shall provide a copy of a comprehensive 
101 agreement to the Joint Committee on Government and 
102 Finance.

CHAPTER 221

(Com. Sub. for H. B. 2637 - By Delegates Espinosa, 
Statler, Upson, Blair, Wilson, Westfall, R. Romine, 
Higginbotham, Harshbarger, Cooper and Folk)

[Passed April 8, 2017; in effect ninety days from passage.]  
[Approved by the Governor on April 25, 2017.]

AN ACT to amend and reenact §18A-2-3 of the Code of West 
Virginia, 1931, as amended, relating to employment of retired
teachers and prospective employable professional personnel in areas of critical need and shortage; including speech pathologists and school nurses in definition of teacher or substitute teacher for purposes of employment of retired teachers beyond the post-retirement limit; establishing uniform date retirement must become effective to determine status of retirement benefits during employment as critical needs substitute teacher; restating reporting requirement to legislative committees; extending date for expiration of provisions related to employment of retired teacher as substitute teach beyond the post-retirement limit; eliminating requirement that county policy for employment of prospective employable professional personnel be based on areas of critical need and shortage identified by state board; requiring posting of notice of critical need and shortage area positions prior to making offers of employment and options for posting; limiting employment of prospective employable professional personnel to certain candidates at job fair who will commence employment at the next employment term; changing limit on number of prospective employable professional personnel that may be employed to number required to fill positions posted; clarifying action required for prospective employable professional personnel to obtain regular employment status; clarifying that provisions relating to prospective employable professional personnel do not prevent filling posted vacancy at any time in accordance with other provisions; eliminating any requirement for successive postings where there were no qualified applicants in response to the initial posting; clarifying that no additional faculty senate involvement is required after initial faculty senate involvement; and allowing financial incentives for purposes of recruiting professional personnel in critical needs areas and to attract professional personnel in a critical need or shortage area.

Be it enacted by the Legislature of West Virginia:

That §18A-2-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:
§18A-2-3. Employment of substitute teachers; employment of retired teachers as substitutes in areas of critical need and shortage; and employment of prospective employable professional personnel.

(a) The county superintendent, subject to approval of the county board, may employ and assign substitute teachers to any of the following duties:

1. Fill the temporary absence of any teacher or an unexpired school term made vacant by resignation, death, suspension or dismissal;

2. Fill a teaching position of a regular teacher on leave of absence; and

3. Perform the instructional services of any teacher who is authorized by law to be absent from class without loss of pay, providing the absence is approved by the board of education in accordance with the law.

The substitute shall be a duly certified teacher.

(b) Notwithstanding any other provision of this code to the contrary, a substitute teacher who has been assigned as a classroom teacher in the same classroom continuously for more than one half of a grading period and whose assignment remains in effect two weeks prior to the end of the grading period, shall remain in the assignment until the grading period has ended, unless the principal of the school certifies that the regularly employed teacher has communicated with and assisted the substitute with the preparation of lesson plans and monitoring student progress or has been approved to return to work by his or her physician. For the purposes of this section, teacher and substitute teacher, in the singular or plural, mean professional educator as defined in section one, article one of this chapter.

(c) (1) The Legislature hereby finds and declares that due to a shortage of qualified substitute teachers, a
compelling state interest exists in expanding the use of retired teachers to provide service as substitute teachers in areas of critical need and shortage. The Legislature further finds that diverse circumstances exist among the counties for the expanded use of retired teachers as substitutes.

(2) For the purposes of this subsection:

(A) “Area of critical need and shortage for substitute teachers” means an area of certification and training in which the number of available substitute teachers in the county who hold certification and training in that area and who are not retired is insufficient to meet the projected need for substitute teachers; and

(B) “Teacher or substitute teacher” includes speech pathologists and school nurses.

(3) A person receiving retirement benefits under article seven-a, chapter eighteen of this code or who is entitled to retirement benefits during the fiscal year in which that person retired may accept employment as a critical needs substitute teacher for an unlimited number of days each fiscal year without affecting the monthly retirement benefit to which the retirant is otherwise entitled if the following conditions are satisfied:

(A) The county board adopts a policy recommended by the superintendent to address areas of critical need and shortage for substitute teachers;

(B) The policy sets forth the areas of critical need and shortage for substitute teachers in the county in accordance with the definition of area of critical need and shortage for substitute teachers set forth in subdivision (2) of this subsection;

(C) The policy provides for the employment of retired teachers as critical needs substitute teachers during the school year on an expanded basis in areas of critical need
and shortage for substitute teachers as provided in this subsection;

(D) The policy provides that a retired teacher may be employed as a substitute teacher in an area of critical need and shortage for substitute teachers on an expanded basis as provided in this subsection only when no other teacher who holds certification and training in the area and who is not retired is available and accepts the substitute assignment;

(E) The policy is effective for one school year only and is subject to annual renewal by the county board;

(F) The state board approves the policy and the use of retired teachers as substitute teachers on an expanded basis in areas of critical need and shortage for substitute teachers as provided in this subsection; and

(G) Prior to employment of a retired teacher as a critical needs substitute teacher beyond the post-retirement employment limitations established by the Consolidated Public Retirement Board, the superintendent of the affected county submits to the state board in a form approved by the Consolidated Public Retirement Board and the state board, an affidavit signed by the superintendent stating the name of the county, the fact that the county has adopted a policy to employ retired teachers as substitutes to address areas of critical need and shortage, the name or names of the person or persons to be employed as a critical needs substitute pursuant to the policy, the critical need and shortage area position filled by each person, the date that the person gave notice to the county board of the person’s intent to retire, and the effective date of the person’s retirement. Upon verification of compliance with this section and the eligibility of the critical needs substitute teacher for employment beyond the post-retirement limit, the state board shall submit the affidavit to the Consolidated Public Retirement Board.
(4) Any person who retires and begins work as a critical needs substitute teacher within the same fiscal year in which that person retired shall lose those retirement benefits attributed to the annuity reserve, effective from the first day of employment as a retiree critical needs substitute teacher in that fiscal year and ending with the month following the date the retiree ceases to perform service as a critical needs substitute teacher.

(5) Retired teachers employed to perform expanded substitute service pursuant to this subsection are considered day-to-day, temporary, part-time employees. The substitutes are not eligible for additional pension or other benefits paid to regularly employed employees and may not accrue seniority.

(6) A retired teacher is eligible to be employed as a critical needs substitute teacher to fill a vacant position without any loss of retirement benefits attributed to the annuity reserve only if the retired teacher’s retirement became effective before the first day of July preceding at least the fiscal year during which he or she is employed as a critical needs substitute teacher.

(7) When a retired teacher is employed as a critical needs substitute to fill a vacant position, the county board shall continue to post the vacant position until it is filled with a regularly employed teacher who is fully certified or permitted for the position.

(8) When a retired teacher is employed as a critical needs substitute to fill a vacant position, the position vacancy shall be posted electronically and easily accessible to prospective employees as determined by the state board.

(9) Until this subsection is expired pursuant to subdivision (10) of this subsection, the state board shall report to the Joint Committee on Government and Finance, prior to February 1 of each year, information indicating the effectiveness of the provisions of this subsection on
reducing the critical need and shortage of substitute teachers including, but not limited to, the number of retired teachers, by critical need and shortage area position filled and by county, employed beyond the post-retirement employment limit established by the Consolidated Public Retirement Board, the date that each person gave notice to the county board of the person’s intent to retire, and the effective date of the person’s retirement. A copy of the report shall also be provided to the Legislative Oversight Commission on Education Accountability.

(10) The provisions of this subsection shall expire on June 30, 2020.

(d) (1) Notwithstanding any other provision of this code to the contrary, each year a county superintendent may employ prospective employable professional personnel on a reserve list at the county level subject to the following conditions:

(A) The county board adopts a policy authorizing the employment of prospective employable professional personnel to address areas of critical need and shortage;

(B) The county board posts a notice of the critical need and shortage area positions in the county in a conspicuous place in each school or on the county website for at least ten working days prior to making offers of employment to prospective candidates; and

(C) There are not any potentially qualified applicants available and willing to fill the position.

(2) Prospective employable professional personnel may only be employed from candidates at a job fair who have or will graduate from college in the current school year and will commence employment at the next employment term.

(3) The number of prospective employable professional personnel employed is limited to the number required to fill
the critical need and shortage area positions posted in accordance with subdivision (1) of this subsection.

(4) Prospective employable professional personnel shall be granted benefits at a cost to the county board and as a condition of the employment contract as approved by the county board.

(5) Regular employment status for prospective employable professional personnel may be obtained only upon recommendation by the superintendent and approval by the county board following consideration of the qualifications of the candidate in accordance with the applicable provisions of section seven-a, article four of this chapter. Upon board approval, prospective employable professional personnel may be placed into a critical needs position if the job has been posted at least once in accordance with paragraph (B), subdivision (1) of this subsection resulting in no qualified applicants. Employment of the prospective employable professional personnel pursuant to this subsection may occur without the need for additional postings and without the need for additional faculty senate involvement other than the initial faculty senate involvement required in the case of a classroom teaching position pursuant to section seven-a, article four of this chapter.

(6) Nothing in this subsection prevents a county board from filling a posted vacancy in an established, existing or newly created position at any time in accordance with the other provisions of this chapter.

(7) For the purpose of recruiting professional personnel in critical needs areas and to attract professional personnel in a critical need or shortage area, county boards of education may from local funds pay prospective employable professional personnel a one-time financial incentive such as, but not limited to, a signing bonus or moving expenses, after a contract of employment has been signed.
AN ACT to amend and reenact §18A-3-2a of the Code of West Virginia, 1931, as amended, relating to teaching certificates for teachers whose spouses are members of the Armed Forces who are on active duty stationed in this state or within fifty air miles of the West Virginia border.

Be it enacted by the Legislature of West Virginia:

That §18A-3-2a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.

§18A-3-2a. Certificates valid in the public schools that may be issued by the state superintendent.

1 In accordance with state board rules for the education of professional educators adopted pursuant to section one of this article and subject to the limitations and conditions of that section, the state superintendent may issue the following certificates valid in the public schools of the state:

6 (a) Professional teaching certificates. —

7 (1) A professional teaching certificate for teaching in the public schools may be issued to a person who meets the following conditions:
(A) Holds at least a bachelor’s degree from a regionally accredited institution of higher education, and

(i) Has passed appropriate state board approved basic skills and subject matter tests in the area for which licensure is being sought; and

(ii) Has completed a program for the education of teachers which meets the requirements approved by the state board; or

(iii) Has met equivalent standards at institutions in other states; or

(iv) Has completed three years of successful teaching experience within the last seven years under a license issued by another state in the area for which licensure is being sought; or

(v) Has completed an alternative program approved by another state; or

(B) Holds at least a bachelor’s degree from an accredited institution of higher education; and

(i) Has passed appropriate state board approved basic skills and subject matter tests; and

(ii) Has completed an alternative program for teacher education as provided in this article; and

(iii) Is recommended for a certificate in accordance with the provisions of section one-i of this article relating to the program; and

(iv) Is recommended by the state superintendent based on documentation submitted.

(2) The certificate shall be endorsed to indicate the grade level or levels or areas of specialization in which the person is certified to teach or to serve in the public schools.
(3) The initial professional certificate is issued provisionally for a period of three years from the date of issuance:

(A) The certificate may be converted to a professional certificate valid for five years subject to successful completion of a beginning teacher induction program, if applicable; or

(B) The certificate may be renewed subject to rules adopted by the state board.

(b) Alternative program teacher certificate. — An alternative program teacher certificate may be issued to a candidate who is enrolled in an alternative program for teacher education approved by the state board.

(1) The certificate is valid only for the alternative program position in which the candidate is employed and is subject to enrollment in the program.

(2) The certificate is valid while the candidate is enrolled in the alternative program, up to a maximum of three years, and may not be renewed.

(c) Professional administrative certificate. —

(1) A professional administrative certificate, endorsed for serving in the public schools, with specific endorsement as a principal, vocational administrator, supervisor of instructions or superintendent, may be issued to a person who has completed requirements all to be approved by the state board as follows:

(A) Holds at least a master’s degree from an institution of higher education accredited to offer a master’s degree; and

(i) Has successfully completed an approved program for administrative certification developed by the state board in cooperation with the chancellor for higher education, and
(ii) Has successfully completed education and training in evaluation skills through the center for professional development, or equivalent education and training in evaluation skills approved by the state board, and

(iii) Possesses three years of management level experience.

(2) Any person serving in the position of dean of students on June 4, 1992, is not required to hold a professional administrative certificate.

(3) The initial professional administrative certificate is issued provisionally for a period of five years. This certificate may be converted to a professional administrative certificate valid for five years or renewed, subject to the regulations of the state board.

(d) Paraprofessional certificate. — A paraprofessional certificate may be issued to a person who meets the following conditions:

(1) Has completed thirty-six semester hours of post-secondary education or its equivalent in subjects directly related to performance of the job, all approved by the state board; and

(2) Demonstrates the proficiencies to perform duties as required of a paraprofessional as defined in section eight, article four of this chapter.

(e) Other certificates; permits. —

(1) Other certificates and permits may be issued, subject to the approval of the state board, to persons who do not qualify for the professional or paraprofessional certificate.

(2) A certificate or permit may not be given permanent status and a person holding one of these credentials shall meet renewal requirements provided by law and by regulation, unless the state board declares certain of these
certificates to be the equivalent of the professional certificate.

(3) Within the category of other certificates and permits, the state superintendent may issue certificates for persons to serve in the public schools as athletic coaches or coaches of other extracurricular activities, whose duties may include the supervision of students, subject to the following limitations:

(A) The person is employed under a contract with the county board of education.

(i) The contract specifies the duties to be performed, specifies a rate of pay that is equivalent to the rate of pay for professional educators in the district who accept similar duties as extra duty assignments, and provides for liability insurance associated with the activity; and

(ii) The person holding this certificate is not considered an employee of the board for salary and benefit purposes other than as specified in the contract.

(B) The person completes an orientation program designed and approved in accordance with state board rules.

(f) Teacher-In-Residence Permit. —

(1) A teacher-in-residence permit may be issued to a candidate who is enrolled in a teacher-in-residence program in accordance with an agreement between an institution of higher education and a county board. The agreement is developed pursuant to subsection (e), section one of this article and requires approval by the state board.

(2) The permit is valid only for the teacher-in-residence program position in which the candidate is enrolled and is subject to enrollment in the program. The permit is valid for no more than one school year and may not be renewed.
temporary teaching certificates for Armed Forces spouses. —

(1) A temporary teaching certificate for an Armed Forces spouse may be issued to an individual who meets the following criteria:

(A) He or she is married to a member of the Armed Forces of the United States who is on active duty;

(B) He or she holds a current unencumbered teaching certificate or license issued by an equivalent credentialing department, board, or authority, as determined by the state superintendent, in another state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, another territory or protectorate of the United States or a foreign country; and

(C) He or she provides proof acceptable to the state superintendent that his or her spouse is assigned to a duty station in this state or at a military installation within fifty air miles of the West Virginia border and that he or she is also assigned to a duty station in this state or at a military installation within fifty air miles of the West Virginia border under his or her spouse’s official active duty military orders.

(2) The state superintendent shall deny a temporary teaching certificate to an individual described in (1) above for fraud, material misrepresentation or concealment in the person’s application for a temporary teaching certificate or for a conviction for which an individual’s teaching certificate may be revoked under section six of this article.

(3) A temporary teaching certificate issued under (1) above is valid for one year and may be renewed for additional one year terms if the state superintendent determines the individual holding the temporary teaching certificate continues to meet the requirements of (1) above. The state superintendent may revoke a temporary teaching
AN ACT to amend and reenact §18A-3-6 and §18A-3-10 of the Code of West Virginia, 1931, as amended, all relating generally to the licensure or certification of teachers; providing for the automatic revocation of a certificate or license for a teacher convicted of an offense under chapter sixty-one, article eight-d, section five of the code; and permitting the West Virginia Department of Education to require that a licensee be fingerprinted for analysis by the West Virginia State Police for a state criminal history record check through the central abuse registry and by the Federal Bureau of Investigation for a national criminal history record check, when the licensee has lived outside of the state for one year or more since licensure, or when the department or school administrator reasonably believes the licensee has not disclosed a felony conviction, a conviction of an offense under chapter sixty-one, article eight-b of this code, or a conviction of an offense similar to those in chapter sixty-one, article eight-b of this code that have been established under the laws of any other state or the United States.

Be it enacted by the Legislature of West Virginia:
That §18A-3-6 and §18A-3-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.

§18A-3-6. Grounds for revocation of certificates; recalling certificates for correction.

(a) The state superintendent may, after ten days’ notice and upon proper evidence, revoke the certificates of any teacher for any of the following causes: Intemperance; untruthfulness; cruelty; immorality; the conviction of a felony or a guilty plea or a plea of no contest to a felony charge; the conviction, guilty plea or plea of no contest to any charge involving sexual misconduct with a minor or a student; or for using fraudulent, unapproved or insufficient credit to obtain the certificates: Provided, That the certificates of a teacher may not be revoked for any matter for which the teacher was disciplined, less than dismissal, by the county board that employs the teacher, nor for which the teacher is meeting or has met an improvement plan determined by the county board, unless it can be proven by clear and convincing evidence that the teacher has committed one of the offenses listed in this subsection and his or her actions render him or her unfit to teach: Provided, however, That in order for any conduct of a teacher involving intemperance; cruelty; immorality; or using fraudulent, unapproved or insufficient credit to obtain the certificates to constitute grounds for the revocation of the certificates of the teacher, there must be a rational nexus between the conduct of the teacher and the performance of his or her job. The state superintendent may designate the West Virginia commission for professional teaching standards or members thereof to conduct hearings on revocations or certificate denials and make recommendations for action by the state superintendent: Provided further, That a teacher convicted under chapter sixty-one, article eight-d, section five shall have his or her certificate or license automatically revoked.
(b) It shall be the duty of any county superintendent who knows of any acts on the part of any teacher for which a certificate may be revoked in accordance with this section to report the same, together with all the facts and evidence, to the state superintendent for such action as in the state superintendent’s judgment may be proper.

(c) If a certificate has been granted through an error, oversight, or misinformation, the state superintendent has authority to recall the certificate and make such corrections as will conform to the requirements of law and the state board.

§18A-3-10. Criminal history check of applicants for licensure by the state Department of Education.

(a) Any applicant for an initial license issued by the West Virginia Department of Education shall be fingerprinted by the West Virginia State Police in accordance with state board policy in order to determine the applicant’s suitability for licensure. The fingerprints shall be analyzed by the State Police for a state criminal history record check through the central abuse registry and then forwarded to the Federal Bureau of Investigation for a national criminal history record check.

(b) Information contained in either the central abuse registry record or the Federal Bureau of Investigation record may form the basis for the denial of a certificate for just cause.

(c) The applicant for initial certification pays for the cost of obtaining the central abuse registry record and the Federal Bureau of Investigation record.

(d) Upon written consent to the state department by the applicant and within ninety days of the state fingerprint analysis, the results of a state analysis may be provided to a county board with which the applicant is applying for employment without further cost to the applicant.

(e) Information maintained by the state department or a county board which was obtained for the purpose of this
section is exempt from the disclosure provisions of chapter twenty-nine-b of this code. Nothing in this section prohibits disclosure or publication of information in a statistical or other form which does not identify the individuals involved or provide personal information.

(f) After an initial license has been issued by the West Virginia Department of Education, the West Virginia Department of Education may require any licensee to be fingerprinted by the West Virginia State Police in accordance with state board policy: Provided, That the licensee lived outside of the State of West Virginia for a period of one year or more since his or her licensure, or the West Virginia Department of Education or the school administrator has a reasonable belief that the licensee has not notified the school administrator of any felony conviction, conviction of any offense under chapter sixty-one, article eight-b of this code, or offenses of similar nature to those in chapter sixty-one, article eight-b of this code that have been established under any other state or the United States. The fingerprints may be analyzed by the West Virginia State Police for a state criminal history record check through the central abuse registry and then forwarded to the Federal Bureau of Investigation for a national criminal history record check.

CHAPTER 224
(S. B. 256 - By Senators Trump, Boso, Cline, Gaunch and Woelfel)

[Passed April 6, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 24, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-22, relating to prohibiting aiding and abetting of sexual abuse by
school personnel; prohibiting school personnel, contractors, agents or employees of any state, regional or local education agency from assisting school employees, contractors or agents in obtaining a new job with knowledge, or has probable cause to believe, that the person engaged in sexual misconduct with a minor or student; clarifying that routine transmission of administrative and personnel files is permissible; providing exceptions to prohibition on aiding those individuals from obtaining new jobs; and clarifying the relationship between prohibition and other statutes, regulations or policies.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18A-4-22, to read as follows:

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-22. Prohibition on aiding and abetting sexual abuse.

(a) No school personnel, contractor or agent, or any employee of any state, regional or local educational agency including any employee of a public or private school, may assist an individual employed as school personnel, a contractor or an agent in obtaining a new job if the individual or agency knows, or has probable cause to believe, that such school employee, contractor or agent engaged in sexual misconduct regarding a minor or student in violation of the law: Provided, That nothing in this section shall be construed to prohibit the routine transmission of administrative and personnel files.

(b) The requirements of subsection (a) of this section shall not apply if:

(1) The information giving rise to probable cause has been properly reported to a law-enforcement agency with jurisdiction over the alleged misconduct and reported to any other authorities as required by federal, state or local law; and

(2) One of the following has happened:
(A) The matter has been officially closed, or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school personnel, contractor or agent engaged in sexual misconduct regarding a minor or student in violation of the law;

(B) The school personnel, contractor or agent has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or

(C) The case or investigation remains open and there have been no charges filed against, or indictment of, the school personnel, contractor or agent within four years of the date on which the information was reported to a law-enforcement agency.

(c) Nothing in this section shall be construed to override a statute, regulation or policy that provides greater or additional protections to prohibit any individual who is school personnel, contractor or agent, or any state, regional or local educational agency from assisting a school employee who engaged in sexual misconduct regarding a minor or student in violation of the law in obtaining a new job.

CHAPTER 225

(Com. Sub. for H. B. 2851 - By Delegates White, Westfall, Moore, Dean, Lane, Ward and Frich)

[Passed April 8, 2017; in effect ninety days from passage.]  
[Approved by the Governor on April 24, 2017.]

AN ACT to amend and reenact §32-2-202 of the Code of West Virginia, 1931, as amended; to amend and reenact §32-3-305 of said code; to amend and reenact §32-2-406 of said code;
and to amend and reenact §32-4-413 of said code, all relating to increasing fees assessed by the Auditor’s Securities Division; and changing the threshold at which money in the Auditor’s Security Division’s special revenue fund becomes excess and transfers to the General Revenue Fund for the 2018 fiscal year.

Be it enacted by the Legislature of West Virginia:

That §32-2-202 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §32-3-305 of said code be amended and reenacted; that §32-2-406 of said code be amended and reenacted; and that §32-4-413 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. REGISTRATION OF BROKER-DEALERS AND AGENTS; REGISTRATION AND NOTICE FILING FOR INVESTMENT ADVISERS.


(a) A broker-dealer, agent or investment adviser may obtain an initial or renewal registration by filing with the commissioner an application, together with a consent to service of process pursuant to subsection (g), section four hundred fourteen, article four of this chapter. The application shall contain whatever information the commissioner by rule requires concerning matters such as:

(1) The applicant’s firm and place of organization; (2) the applicant’s proposed method of doing business; (3) the qualifications and business history of the applicant and in the case of a broker-dealer or investment adviser, the qualifications and business history of any partner, officer or director, any person occupying a similar status or performing similar functions or any person, directly or indirectly, controlling the broker-dealer or investment adviser and, in the case of an investment adviser, the qualifications and business history of any employee; (4) any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the
securities business and any conviction of a felony; and (5)
subject to the limitations of §15(h)(1) of the Securities
Exchange Act of 1934, the applicant’s financial condition
and history. The commissioner may by rule or order require
an applicant for initial registration to publish an
announcement of the application as a Class I legal
advertisement in compliance with the provisions of article
three, chapter fifty-nine of this code and the publication area
or areas for the publication shall be specified by the
commissioner. If no denial order is in effect and no
proceeding is pending under section two hundred four of
this article, registration becomes effective at noon of the
thirtieth day after an application is filed. The commissioner
may by rule or order specify an earlier effective date and he
or she may by order defer the effective date until noon of
the thirtieth day after the filing of any amendment to an
application. Registration of a broker-dealer automatically
constitutes registration of any agent who is a partner, officer
or director, or a person occupying a similar status or
performing similar functions, as designated by the broker-
dealer in writing to the commissioner and approved in
writing by the commissioner. Registration of an investment
adviser automatically constitutes registration of any
investment adviser representative who is a partner, officer
or director or a person occupying a similar status or
performing similar functions as designated by the
investment adviser in writing to the commissioner and
approved in writing by the commissioner.

(b) Except with respect to federal-covered advisers
whose only clients are those described in paragraphs (A)
and (B), subdivision (3), subsection (c), section two hundred
one of this article, a federal-covered adviser shall file with
the commissioner, prior to acting as a federal-covered
adviser in this state, such documents as have been filed with
the securities and exchange commissioner as the
commissioner, by rule or order, may require along with
notice filing fees under subsection (c) of this section.
(c) Every applicant for initial or renewal registration shall pay a filing fee of $300 in the case of a broker-dealer and the agent of an issuer, $66 in the case of an agent, $200 in the case of an investment adviser and $75 for each investment adviser representative. When an application is denied or withdrawn, the commissioner shall retain all of the fee.

(d) A registered broker-dealer or investment adviser may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the year. A filing fee of $24 shall be paid.

(e) The commissioner may, by rule or order, require a minimum capital for registered broker-dealers, subject to the limitations of Section 15 of the Securities Exchange Act of 1934 and establish minimum financial requirements for investment advisers, subject to the limitations of Section 222 of the Investment Advisers Act of 1940, which may include different requirements for those investment advisers who maintain custody of clients’ funds or securities or who have discretionary authority over same and those investment advisers who do not.

(f) The commissioner may, by rule or order, require registered broker-dealers, agents and investment advisers who have custody of or discretionary authority over client funds or securities to post surety bonds in amounts as the commissioner may prescribe, by rule or order, subject to the limitations of Section 15 of the Securities Exchange Act of 1934 (for broker-dealers) and Section 222 of the Investment Advisers Act of 1940 (for investment advisers), up to $25,000 and may determine their conditions. Any appropriate deposit of cash or securities shall be accepted in lieu of any bond so required. No bond may be required of any registrant whose net capital or, in the case of an investment adviser, whose minimum financial requirements, which may be defined by rule, exceeds the amounts required by the commissioner. Every bond shall
provides for suit thereon by any person who has a cause of
action under section four hundred ten, article four of this
chapter and, if the commissioner by rule or order requires,
by any person who has a cause of action not arising under
this chapter. Every bond shall provide that no suit may be
maintained to enforce any liability on the bond unless
brought within the time limitations set forth in subsection
(e), section four hundred ten, article four of this chapter.

(g) Every applicant whether registered under this
chapter or not, shall pay a $60 fee for each name or address
change.

(h) Every broker-dealer and investment advisor
registered under this chapter shall pay an annual $60 fee for
each branch office located in West Virginia.

(i) Each agent, representative and associated person of
a broker-dealer or investment advisor when applying for an
initial license under this section or changing employers shall
pay a compliance assessment of $30. Each agent,
representative and associated person, when applying for a
renewal license under this section, shall pay a compliance
assessment of $12. The West Virginia State Legislature
reserves the right to adjust the fees set forth in this section
once every four years in an amount reflecting the percentage
increase in the cost of administering this article from the
amount of such costs on the effective date of this article.

ARTICLE 3. REGISTRATION OF SECURITIES.

§32-3-305. Provisions applicable to registration and notice
filing generally.

(a) A registration or notice filing statement may be filed
by the issuer, any other person on whose behalf the offering
is to be made or a registered broker-dealer. A registration or
notice filing statement filed under this chapter registering or
noticing investment company shares shall cover only one
class, series or portfolio of investment company shares.
(b) Every person filing a registration or notice filing statement shall pay a filing fee of one sixteenth of one percent of the maximum aggregate offering price at which the registered or noticed securities are to be offered in this state, but the fee shall in no case be less than $60 or more than $1800. When a registration or notice filing statement is withdrawn before the effective date or a preeffective stop order is entered under section three hundred six of this article, the commissioner shall retain all of the fee.

(c) Every registration statement and notice filing shall specify: (1) The amount of securities to be offered in this state; (2) the states in which a registration statement or similar document in connection with the offering has been or is to be filed; and (3) any adverse order, judgment or decree entered in connection with the offering by the regulatory authorities in each state or by any court or the securities and exchange commission.

(d) In any case where securities sold in this state are in excess of the aggregate amount of securities specified under subsection (c) of this section, the commissioner may require payment of an oversale assessment which shall be three times an amount which equals the difference between the filing fee that would have been payable under subsection (b) of this section based upon the total amount of securities sold in this state and the total filing fees previously paid to the commissioner with respect to such registration or notice filing, but in no case shall the oversale assessment be less than $420 or be more than $1800.

(e) Any document filed under this chapter or a predecessor act within five years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate.

(f) The commissioner may by rule or otherwise permit the omission of any item of information or document from any registration or notice filing statement.
(g) In the case of a nonissuer distribution, information may not be required under section three hundred four of this article or subsection (k) of this section unless it is known to the person filing the registration statement or to the persons on whose behalf the distribution is to be made, or can be furnished by them without unreasonable effort or expense.

(h) The commissioner may by rule or order require as a condition of registration by qualification or coordination:
   (1) That any security issued within the past three years or to be issued to a promoter for a consideration substantially different from the public offering price, or to any person for a consideration other than cash, be deposited in escrow; and
   (2) that the proceeds from the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere. The commissioner may by rule or order determine the conditions of any escrow or impounding required under this subsection, but he or she may not reject a depository solely because of location in another state.

(i) The commissioner may by rule or order require as a condition of registration that any security registered by qualification or coordination be sold only on a specified form of subscription or sale contract and that a signed or conformed copy of each contract be filed with the commissioner or preserved for any period up to three years specified in the rule or order.

(j) Every registration statement is effective for one year from its effective date or any longer period during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by any underwriter or broker-dealer who is still offering part of an unsold allotment or subscription taken by him or her as a participant in the distribution, except during the time a stop order is in effect under section three hundred six of this article. All outstanding securities of the same class as a registered security are considered to be registered for the
purpose of any nonissuer transaction: (1) So long as the registration statement is effective; and (2) between the thirtieth day after the entry of any stop order suspending or revoking the effectiveness of the registration statement under section three hundred six of this article (if the registration statement did not relate, in whole or in part, to a nonissuer distribution) and one year from the effective date of the registration statement. A registration statement may not be withdrawn for one year from its effective date if any securities of the same class are outstanding. A registration statement may be withdrawn otherwise only in the discretion of the commissioner.

(k) So long as a registration statement is effective, the commissioner may by rule or order require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering.

(l) A registration statement relating to a security issued by a face amount certificate company or a redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, may be amended after its effective date so as to increase the securities specified as proposed to be offered. The amendment becomes effective when the commissioner so orders. Every person filing an amendment shall pay a filing fee, calculated in the manner specified in subsection (b) of this section, with respect to the additional securities proposed to be offered.

(m) Every person changing the name or address of a securities registration or notice filing shall pay a $60 fee for change.

(n) Every person amending a registration statement or notice filing or offering a document without increasing the dollar amount registered shall pay a $60 fee for each amended statement, notice filing or document.
(o) Every registered issuer or notice filing shall annually file a sales report and shall pay a filing fee for that report of one eighth of one percent of the maximum offering price at which the registered or noticed securities are offered in this state but the fee shall in no case be less than $240 nor more than $1800.

ARTICLE 4. GENERAL PROVISIONS.

§32-4-406. Administration of chapter; operating fund for securities department.

(a) This chapter shall be administered by the Auditor of this state and he or she is hereby designated, and shall be, the commissioner of securities of this state. He or she or she has the power and authority to appoint or employ such assistants as are necessary for the administration of this chapter.

(b) The Auditor shall set up a special operating fund for the securities division in his or her office. The Auditor shall pay into the fund twenty percent of all fees collected as provided for in this chapter. If, at the end of any fiscal year, the balance in the special operating fund exceeds half of the prior fiscal year’s appropriation, the excess shall be transferred to the General Revenue Fund: Provided, That at the end of the 2018 fiscal year, if the balance in the special operating fund exceeds twenty percent of the gross revenues from the special operating fund operations, the auditor may first use the fund to repay any transfers made during the 2017 fiscal year from the Revenue Shortfall Reserve Fund to the West Virginia Enterprise Resource Planning Board created in section one, article six-d, chapter twelve of this code: Provided, however, That at the end of the 2018 fiscal year, after any repayments made out of the special operating fund to the Revenue Shortfall Reserve Fund, any balance in the special operating fund that exceeds half of prior year’s appropriation shall be transferred to the General Revenue Fund.
The special operating fund shall be used by the Auditor to fund the operation of the securities division and the general operations of the Auditor’s office. The special operating fund shall be appropriated by line item by the Legislature.

(c) Moneys payable for assessments established by section four hundred seven-a of this article shall be collected by the commissioner and deposited into the General Revenue Fund.

(d) It is unlawful for the commissioner or any of his or her officers or employees to use for personal benefit any information which is filed with or obtained by the commissioner and which is not made public. No provision of this chapter authorizes the commissioner or any of his or her officers or employees to disclose any information except among themselves or when necessary or appropriate in a proceeding or investigation under this chapter. No provision of the chapter either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the commissioner or any of his or her officers or employees.

§32-4-413. Administrative files and opinions.

(a) A document is filed when it is received by the commissioner.

(b) The commissioner shall keep a register of all notice filings and all applications for registration and registration statements which are or have ever been effective under this chapter and all denial, suspension or revocation orders which have been entered under this chapter. The register shall be open for public inspection.

(c) The information contained in or filed with any registration statement, application or report may be made available to the public under rules prescribed by the commissioner.
(d) Upon request and at such reasonable charges as he or she prescribes, the commissioner shall furnish to any person photostatic or other copies (certified under his or her seal of office if requested) of any entry in the register or any document which is a matter of public record. In any proceeding or prosecution under this chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified.

(e) The commissioner in his or her discretion may honor requests from interested persons for interpretative opinions. Copies of the opinions shall be filed in a special file maintained for that purpose and shall be public records available for public inspection. The commissioner shall charge a $120 fee for each interpretative opinion.

CHAPTER 226

(S. B. 564 - By Senators Takubo and Stollings)

[Passed April 5, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 20, 2017.]

AN ACT to amend and reenact §18-10M-2, §18-10M-4, §18-10M-6, §18-10M-7 and §18-10M-8 of the Code of West Virginia, 1931, as amended, all relating to the Statewide Independent Living Council; making changes required by amendments to the federal Rehabilitation Act of 1973; updating definitions; modifying the functions and duties of the council; redesignating council relationships with centers for independent living and a designated state entity; providing for compensation and expense reimbursement for members engaged in official duties; requiring signatures for acceptance and approval of state plan; and making conforming amendments.
Be it enacted by the Legislature of West Virginia:

That §18-10M-2, §18-10M-4, §18-10M-6, §18-10M-7 and §18-10M-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 10M. WEST VIRGINIA INDEPENDENT LIVING ACT.

§18-10M-2. Legislative findings and declarations.

The Legislature hereby finds and declares the following:

1. The state recognizes the value of independent living services in maximizing the ability of people with disabilities to live more independently in their own homes and communities.
2. Persons with disabilities have the best capacity to design, develop, manage and implement the programs and services which are intended to assist them.
3. The federal Rehabilitation Act, as amended, requires this state to develop a state plan for independent living to describe and direct independent living services in West Virginia.
4. The federal Rehabilitation Act, as amended, further calls for the establishment and operation of a Statewide Independent Living Council to monitor, review and evaluate the implementation of the state’s plan for independent living services.
5. Approximately twenty-three and one-half percent of West Virginia’s residents have one or more disabilities, many of whom could benefit directly or indirectly from the provision of independent living services by the Division of Rehabilitation Services and the state’s centers for independent living.
6. A need exists for a coordinated network of consumer-controlled centers for independent living that
effectively reaches persons with disabilities in all fifty-five counties of the state.

§18-10M-4. Definitions.

Terms used in this article have the same meanings as those provided in the federal Rehabilitation Act, as amended, as follows:

(a) “Consumer control” means circumstances in which individuals with disabilities having decision-making authority.

(b) “Council” means the Statewide Independent Living Council.

(c) “Designated state entity” means the entity designated in the state plan for independent living to receive and administer federal funding as directed by the plan.


(e) “Independent living services” means advocacy; independent living skills; training; information and referral; peer counseling; peer support; transition, including services that facilitate the transition of individuals with significant disabilities from nursing homes and other institutions to home and community-based residences, with the requisite supports and services; provide assistance to individuals with significant disabilities who are at risk of entering institutions so that the individuals may remain in the community; facilitate the transition of youth who are individuals with significant disabilities, who were eligible for individualized education programs pursuant to section 614(d) of the federal Individuals with Disabilities Education Act (20 U. S. C. 1414(d)), and who have completed their secondary education or otherwise left school, to post-secondary life; and any other service directed by the state plan which may include, but is not limited to, the following:
(1) Assistive devices and equipment;
(2) Communication services;
(3) Counseling and related services;
(4) Community awareness programs to enhance the understanding and integration into society of individuals with disabilities;
(5) Environmental modifications;
(6) Family services;
(7) Housing advocacy;
(8) Mobility training;
(9) Personal assistance services;
(10) Prostheses and other appliances and devices; and
(11) Rehabilitation technology.

(f) “Individual with a significant disability” means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment, respectively.

(g) “State plan” means the state plan for independent living required by the federal Rehabilitation Act of 1973, as amended.


(a) The West Virginia Statewide Independent Living Council is continued as a not-for-profit corporation which
has been organized to meet the requirements of the federal
Rehabilitation Act, as amended. The council may not be
established as an entity within any agency or political
subdivision of the state. The council shall be governed by a
board of directors, consisting of the voting members of the
council, as provided in this section. The composition of this
board of directors, as well as the composition of the full
council’s membership, shall include a majority of members
who are persons with disabilities, as defined in the federal
Rehabilitation Act, as amended, who are not employed by
any agency of the state or center for independent living. The
council’s membership shall reflect balanced geographical
representation, diverse backgrounds and a broad range of
disabilities, including, but not limited to, physical, mental,
cognitive, sensory and multiple.

(b) The council shall function as a partner with the
centers for independent living, in compliance with the
federal Rehabilitation Act, as amended, in the planning and
provision of independent living services in the state. In
conjunction with the centers for independent living, the
council shall develop, approve and submit to the proper
federal authorities the state plan for independent living, as
required by the federal act. The council shall monitor,
review and evaluate the effectiveness of the implementation
of the state plan.

(c) Voting members. — The council shall consist of
twenty-four voting members, including one director of an
independent living center chosen by the directors of the
independent living centers in the state. The Governor shall
select appointments from among the nominations submitted
by the council after having conducted a statewide
solicitation from organizations representing a wide range of
individuals with disabilities and other interested groups, as
coordinated by the council, by and with the advice and
consent of the Senate. These members may include
individuals with disabilities, other representatives from
centers for independent living, parents and guardians of
individuals with disabilities, advocates of individuals with
disabilities, representatives from the business and educational sectors, representatives of organizations that provide services for individuals with disabilities and other interested individuals, as appropriate to the purpose of the council.

(d) *Nonvoting members.* — The membership of the council shall also include the following, nonvoting, ex officio members or their designees who shall be appointed by the Governor:

(1) A representative of the designated state entity;

(2) A representative of the Division of Intellectual and Developmental Disabilities within the Department of Health and Human Resources;

(3) A representative of the West Virginia Housing Development Fund;

(4) A representative of the West Virginia Association of Rehabilitation Facilities;

(5) A representative of the Bureau of Senior Services; and

(6) A representative of the Office of Special Education Programs and Assurance in the Department of Education.

(e) The nonvoting membership may also include additional representatives of groups represented on the board of directors as identified in the bylaws of the council.

(f) *Appointment.* — All council members are appointed by the Governor. The Governor shall appoint from among the nominations submitted by organizations representing a wide range of individuals with disabilities and other interested groups, as coordinated by the council.

(g) *Terms of appointment.* — All council members are appointed to serve for a term of three years, except that a
member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of the unexpired term. No member of the council may serve more than two consecutive full terms.

(h) **Vacancies.** — Any vacancy occurring in the appointed membership of the council shall be filled in the same manner as the original appointment. A vacancy does not affect the power of the remaining members to execute the duties of the council.

(i) **Delegation.** — The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council after initial appointments have been made.

(j) **Duties.** — The council shall:

(1) In conjunction with the centers for independent living, develop and sign the state plan for independent living;

(2) Monitor, review and evaluate the implementation of the state plan;

(3) Coordinate activities with other bodies that address the needs of specific disability populations and issues under other federal and state law;

(4) Ensure that all regularly scheduled meetings of the council are open to the public and sufficient advance notice is provided;

(5) Submit to the federal funding agency such periodic reports as are required and keep such records and afford access to such records, as may be necessary to verify such reports; and

(6) Ensure that the state plan for independent living sets forth the steps that will be taken to maximize the
cooperation, coordination and working relationships among:

(A) The Independent Living Rehabilitation Service Program, the Statewide Independent Living Council and centers for independent living; and

(B) The designated state unit, other state agencies represented on the council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the council.

(k) Authorities. — Unless prohibited by state law the council may, consistent with the state plan described in section seven of this article:

(1) Work with centers for independent living to coordinate services with public and private entities to improve services provided to individuals with disabilities;

(2) Conduct resource development activities to support the activities described in this article to support the provision of independent living services by centers for independent living; and

(3) Perform other functions, consistent with the purpose of this article and comparable to other functions described in this subsection, as the council determines to be appropriate.

(l) Staffing and resources. — The council may employ staff as necessary to perform the functions of the council, including an executive director and other staff as may be determined necessary by the council. The council shall supervise and evaluate the executive director. The council shall prepare, in conjunction with the designated state entity, a plan for the use of available resources as may be necessary to carry out the functions and duties of the council pursuant to this article, utilizing eligible federal funds including innovation and expansion funds as directed by the
federal Rehabilitation Act, as amended, funds made available under this article and funds from other public and private sources. This resource plan shall, to the maximum extent possible, rely on the use of existing resources during the period of plan implementation.

(m) Compensation and expenses. — The council may use available resources to reimburse members of the council for reasonable and necessary expenses of attending council meetings and performing council duties, such as personal assistance services, and if the member is not employed or must forfeit wages from other employment, to pay compensation to the member for attending official meetings or engaging in official duties not to exceed the amount paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law.

§18-10M-7. State plan for independent living.

(a) The state plan shall direct the use of federal funds provided to the state under the federal act and appropriated by the Legislature to the designated state entity in a line item for this purpose, in addition to any state funds that may be appropriated to the designated state entity for the provision of independent living services. The state plan, and each subsequent plan or amendment thereto, shall address the priorities set forth in the federal act for establishing a statewide program of independent living services, including a statewide network of centers for independent living. The council chairperson, as authorized by the voting members of the council, and a majority of the directors of the centers for independent living in the state will sign the state plan indicating agreement with the content. The director of the designated state entity will sign the state plan indicating agreement to serve as the designated state entity, to receive the funding, distribute the funding in accordance to the state plan and to fulfill all responsibilities of the designated state entity as provided in the federal Rehabilitation Act, as amended. The state plan may be amended at any time at the
21 agreement of the council and the centers for independent
22 living.

23 (b) The state plan, and each subsequent plan and any
24 amendments thereto shall be presented to the Legislative
25 Oversight Commission on Health and Human Resources
26 Accountability, created pursuant to article twenty-nine-e,
27 chapter sixteen of this code, for review and consultation.

§18-10M-8. Funding and grants.

1 (a) Funds appropriated to the designated state entity for
2 independent living services shall be administered by the
3 designated state entity and may be used to fund any service
4 or activity included in the state plan for independent living,
5 including funding centers for independent living. In order to
6 qualify for funding, a center for independent living shall
7 meet the definition and comply with the standards and
8 indicators therefor, as established in the federal act.

9 (b) Subject to availability, the state plan may designate
10 funds for purposes including, but not limited to, the
11 following:

12 (1) To provide independent living services to eligible
13 individuals with significant disabilities;

14 (2) To demonstrate ways to expand and improve
15 independent living services;

16 (3) To support the operation of centers for independent
17 living;

18 (4) To support activities to increase the capacities of
19 centers for independent living to develop comprehensive
20 approaches or systems for providing independent living
21 services;

22 (5) To conduct studies and analyses, gather information,
23 develop model policies and procedures and present
24 information, approaches, strategies, findings, conclusions
and recommendations to policymakers in order to enhance independent living services for individuals with disabilities;

(6) To train individuals with disabilities and individuals who provide services to them and other persons regarding the independent living philosophy; and

(7) To provide outreach to populations that are unserved or underserved by programs under this act, including minority groups and urban and rural populations.

As provided in the state plan, funds appropriated for the purposes of this article shall be utilized directly by the designated state entity for the provision of independent living services or through grants or contracts, with the approval of the council, to agencies that meet the definition of and comply with the standards and indicators for centers for independent living set forth in the federal act.

CHAPTER 227

(Com. Sub. for S. B. 533 - By Senators Hall and Mullins)

[Passed April 7, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 25, 2017.]

AN ACT to amend and reenact §8-13-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3-9d of said code; and to amend and reenact §60-4-3b of said code, all relating to the collection of taxes on wine and intoxicating liquors; providing that no wine or liquor excise tax shall be collected on purchases of wine or intoxicating liquors in the original sealed package for the purpose of resale if the final purchase of such wine or intoxicating liquor is subject to the excise tax; and defining terms.
Be it enacted by the Legislature of West Virginia:

That §8-13-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §60-3-9d of said code be amended and reenacted; and that §60-4-3b of said code be amended and reenacted, all to read as follows:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 13. TAXATION AND FINANCE.

§8-13-7. Tax on purchases of intoxicating liquors in municipalities; private club fees.

(a) (1) Every municipality shall have plenary power and authority to levy and collect a tax upon all purchases within such municipality of intoxicating liquors from the Alcohol Beverage Control Commissioner, from any person licensed to sell wine at retail to the public under the provisions of article eight, chapter sixty of this code, or from distributors licensed to sell or distribute wine pursuant to said article: Provided, That no municipality shall have authority to levy or collect any such tax on the intoxicating liquors sold by or purchased from holders of a license issued under the provisions of article seven, chapter sixty of this code: Provided, however, That no municipality shall have authority to levy or collect any such tax on purchases within such municipality of intoxicating liquors or wine in the original sealed package for the purpose of resale in the original sealed package if the final purchase of such intoxicating liquors or wine is subject to the tax imposed under this section, under section nine-d, article three, chapter sixty of this code, or under section twenty-one, article three-a of said chapter. This section shall not be interpreted to authorize a purchase for resale exemption in contravention of section nine-a, article fifteen, chapter eleven of this code. The tax shall be levied upon the purchaser and shall be added to and collected with the price of purchase. The tax shall not exceed five percent of the purchase price.
(2) A copy of any ordinance imposing the tax authorized by this section shall be certified by the mayor of the municipality to the West Virginia Alcohol Beverage Control Commissioner and to the Tax Commissioner. The West Virginia Alcohol Beverage Control Commissioner by appropriate rules and regulations shall provide for the collection of such tax upon all purchases within such municipality of intoxicating liquors from the Alcohol Beverage Control Commissioner, from any person licensed to sell wine at retail pursuant to the provisions of article eight, chapter sixty of this code, or from distributors licensed to sell or distribute wine pursuant to said article, and for distribution thereof to the respective municipalities for which the same shall be collected. Such rules and regulations shall provide that all such taxes shall be deposited with the State Treasurer and distributed quarterly by the Treasurer upon warrants of the Auditor payable to the municipality.

(3) Every municipality shall have plenary power and authority to levy and collect a fee from any private club licensee whose premises are situate therein as authorized in section seven, article seven, chapter sixty of this code.

(b) For purposes of this section:

(1) “Original sealed package” means an original package, as defined in this article, bearing an unbroken seal, as defined in this article. For purposes of this article, the term “original sealed package” does not mean or include a case, shipping box, carton, bottle caddy, cargo container, or any other packaging or container that is not in immediate physical contact with its liquid contents and which is not a “container” as defined in this article;

(2) “Original package” means that container, as defined in this article, into which the manufacturer or bottler of a given liquor or wine first placed a given wine or liquor immediately after it was produced, which is intended by the
manufacturer or bottler to be the container in which such
wine or liquor is to be sold;

(3) “Seal” means a piece of wax, foil, metal, plastic or
paper affixed to a container of liquor or wine in such a way
that the seal must be broken when the container is opened.
The purpose of a seal is to show evidence of opening,
tampering or alteration of the container. A seal bears some
combination of embossed, printed, engraved or impressed
emblems, figures, symbols, words, trademarks, stamps,
medallions, marks, or letters for attestation or evidence of
authenticity. A seal is typically affixed to a package or
container by the manufacturer or bottler of a given wine or
liquor. The term “seal” may include a seal provided by or
specified by this state and required by law to be affixed to a
container of liquor or wine; and

(4) “Container” means a bottle, boxed wine box
(including the liner, bag or bladder thereof), cask, can, jug
or other holder of liquor or wine, which is in immediate
physical contact with the liquid contents, and which is the
only means by which its liquid contents are prevented from
flowing or leaking out of the holder, and which is intended
to be the container in which such wine or liquor is to be sold
to final consumers.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC
LIQUORS.

ARTICLE 3. SALES BY COMMISSIONER.

§60-3-9d. Tax on purchases of intoxicating liquors outside
corporate limits of municipalities.

(a) (1) For the purpose of providing financial assistance
to and for the use and benefit of the various counties and
municipalities of this state, there is hereby levied a tax upon
all purchases outside the corporate limits of any
municipality of intoxicating liquor from state stores or other
agencies of the Alcohol Beverage Control Commissioner,
of wine from any person licensed to sell wine at retail under
(2) All such tax collected within one mile of the corporate limits of any municipality within the state shall be remitted to such municipality; all other tax so collected shall be remitted to the county wherein collected: Provided, That where the corporate limits of more than one municipality be within one mile of the place of collection of such tax, all such tax collected shall be divided equally among each of said municipalities: Provided, however, That such mile is measured by the most direct hard surface road or access way usually and customarily used as ingress and egress to the place of tax collection.

(3) The West Virginia Alcohol Beverage Control Commissioner by appropriate rules and regulations shall provide for the collection of such tax upon all purchases outside the corporate limits of any municipality of intoxicating liquor from state stores or other agencies of the Alcohol Beverage Control Commissioner, separation or
proration of the same and distribution thereof to the respective counties and municipalities for which the same shall be collected. The Tax Commissioner by appropriate rules and regulations shall provide for the collection of such tax upon all purchases outside the corporate limits of any municipality of wine from any person licensed to sell wine at retail under the provisions of article eight, chapter sixty of this code, or from distributors licensed to sell or distribute wine under the provisions of said article, and shall also provide for separation or proration of the same and distribution thereof to the respective counties and municipalities for which the same shall be collected. Such rules and regulations shall provide that all such taxes shall be deposited with the State Treasurer and distributed quarterly by the Treasurer upon warrants of the Auditor payable to the counties and municipalities.

(b) For purposes of this section, terms will have the same meaning as provided in subsection (b), section seven, article thirteen, chapter eight of this code.

ARTICLE 4. LICENSES.

§60-4-3b. Winery and farm winery license to manufacture and sell.

(a) Sales of wine. — An operator of a winery or farm winery may offer wine produced by the winery or farm winery for retail sale to customers from the winery or farm winery for consumption off the premises only. Except for free complimentary samples offered pursuant to section one, article six of this chapter, customers are prohibited from consuming any wine on the premises of the winery or farm winery unless such winery or farm winery has obtained a multicapacity winery or farm winery license: Provided,

That a licensed winery or farm winery may offer complimentary samples per this subsection of wine manufactured by that licensed winery or farm winery for consumption on the premises only on Sundays beginning at 10:00 a.m. in any county in which the same has been
approved as provided in section three-pp, article one, chapter seven of this code.

(b) *Retail sales.* — Every licensed winery or farm winery shall comply with the provisions of articles three, four and eight of this chapter as applicable to wine retailers, wineries and suppliers when properly licensed in such capacities.

(c) *Payment of taxes and fees.* —

(1) The winery or farm winery shall pay all taxes and fees required of licensed wine retailers and meet applicable licensing provisions as required by this chapter and by rule of the commissioner.

(2) Each winery or farm winery acting as its own supplier shall submit to the Tax Commissioner the liter tax for all sales at the winery or farm winery each month, as provided in article eight of this chapter.

(3) The five percent wine excise tax, levied pursuant to section nine-d, article three, chapter sixty of this code or pursuant to section seven, article thirteen, chapter eight of this code, may not be imposed or collected on purchases of wine in the original sealed package for the purpose of resale in the original sealed package if the final purchase of such wine is subject to the excise tax or if the purchase is delivered outside this state.

(4) No liter tax shall be collected on wine sold in the original sealed package for the purpose of resale in the original sealed package if a subsequent sale of such wine is subject to the liter tax.

(5) This section shall not be interpreted to authorize a purchase for resale exemption in contravention of section nine-a, article fifteen, chapter eleven of this code.

(d) *Advertising.* — A winery or farm winery may advertise a particular brand or brands of wine produced by
it and the price of the wine subject to federal requirements or restrictions.

(e) Limitations on licensees. — A winery or farm winery must maintain separate winery or farm winery supplier, retailer and direct shipper licenses when acting in one or more of those capacities and must pay all associated license fees, unless such winery or farm winery holds a license issued pursuant to the provisions of subdivision (12), subsection (b), section three, article eight of this chapter. A winery or farm winery, if holding the appropriate licenses or a multicapacity winery or farm winery license, may act as its own supplier, retailer for off-premises consumption of its wine as specified in section two, article six of this chapter; private wine restaurant; and direct shipper for wine produced by the winery or farm winery. All wineries must use a distributor to distribute and sell their wine in the state, except for farm wineries. No more than one winery or farm winery license may be issued to a single person or entity and no person may hold both a winery and a farm winery license.

(f) For purposes of this section, terms will have the same meaning as provided in subsection (b), section seven, article thirteen, chapter eight of this code.

CHAPTER 228

(Com. Sub. for H. B. 2734 - By Delegates Boggs, Westfall, Nelson and Frich)

[Passed April 6, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 26, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-5-15, all
relating to authorizing dealers of heavy equipment rental inventory to collect a fee from renters for the purpose of paying the dealers’ property taxes on rental equipment and establishing requirements for collection and remittance of such rental fees.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-5-15, to read as follows:

ARTICLE 5. ASSESSMENT OF PERSONAL PROPERTY.

§11-5-15. Dealer collection of fees on heavy equipment rental inventory.

(a) Definitions – When used in this section, or in the administration of this section, the terms defined in this subsection shall have the meanings ascribed to them by this subsection, unless a different meaning is clearly required by the context in which the term is used or by specific definition.

1. “Dealer of heavy equipment rental inventory” means a person or entity principally engaged in the business of short-term rental of property as described under North American Industrial Classification System code 532412, as published by the Bureau of Census.

2. “Heavy equipment rental inventory” means the inventory of any construction, earthmoving or industrial equipment that is mobile and rented by a dealer of heavy equipment rental inventory including attachments for the equipment or other ancillary equipment or tools. Qualified heavy equipment property is mobile if it is not permanently affixed to real property and is capable of being moved to work sites.

3. “Rental” or “renting” means the rental by a dealer of heavy equipment rental inventory:
(A) For period of less than one (1) year or for an undefined period; or

(B) Under a contract with unlimited terms.

(4) “Rental charge” means the total charge for the rental of heavy equipment rental inventory.

(b) For the purpose of the collection and remittance of property taxes on heavy equipment rental inventory, each dealer of heavy equipment rental inventory may, with respect to each rental of heavy equipment rental inventory, assign a fee to each item of heavy equipment rental inventory, state the amount of the fee assigned to the item of heavy equipment rental inventory as a separate line item on the invoice or other billing statement issued by the dealer to the renter, and collect the fee from the renter at the time the renter makes a rental payment to the dealer. The fee shall be in any amount not greater than two and one-half percent of the rental charge of each item of heavy equipment rental inventory.

(c) Any dealer of equipment rental inventory collecting the fee pursuant to subsection b of this section shall account for and hold those amounts separately from all other business receipts and shall use such amounts solely and exclusively for purposes of paying the property taxes levied upon its heavy equipment rental inventory.

(d) Any dealer collecting fees pursuant to subsection a of this section shall remit such amounts annually to the appropriate county sheriff on or before the thirtieth of September immediately following receipt of annual tax statements for the year in which the taxes collected pursuant to subsection a of this section took place. Any such remittances shall be credited against the dealer’s property taxes attributable to the heavy equipment rental inventory for that year. Any fees remitted to any county in excess of the dealer’s actual property tax liability in the applicable tax year attributable to the heavy equipment rental inventory in
that county shall be retained by the county having received the payments and no such excess shall be refunded to the dealer.

(e) Nothing in this section may be construed to exempt such heavy equipment rental inventory from property taxes.

(f) All fees collected from renters shall be excluded from any amounts subject to state or municipal sales or use taxes.

CHAPTER 229

(H. B. 2774 - By Delegates Hamrick, Ward, Folk, Frich, Summers, Statler, Howell, Zatezalo, Queen, Iaquinta and Miley)

[Passed March 28, 2017; in effect ninety days from passage.] [Approved by the Governor on April 8, 2017.]

AN ACT to amend and reenact §11-6H-2 of the Code of West Virginia, 1931, as amended, relating to defining “special aircraft property” to include certain parts, materials or items used in the construction or repair of aircraft, aircraft engines or components of aircraft.

Be it enacted by the Legislature of West Virginia:

That §11-6H-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6H. VALUATION OF SPECIAL AIRCRAFT PROPERTY.

§11-6H-2. Definitions.

(a) When used in this article, terms defined in subsection (b) of this section have the meanings ascribed to
them by this section, unless a different meaning is clearly required by the context in which the term is used.

(b) Terms defined. —

(1) “Aircraft” means a weight-carrying structure for navigation of the air that is supported by the dynamic action of the air against its surfaces and includes, but is not limited to, an airplane or helicopter. For the purposes of this article, the term “aircraft” does not include dirigibles, balloons, kites, rockets, gliders, ornithopters, fan wing vehicles, autogyros and powered lift vehicles other than helicopters.

(2) “Airplane” means a fixed-wing aircraft heavier than air that is driven by a propeller or by jet, turbojet, turbofan, ram jet, pulse jet, scramjet or rocket engine and supported by the dynamic reaction of air against its wings.

(3) “Commercial airline” means an air transportation system used to transport people and tangible personal property for profit and includes carriers that operate with fixed routes and flight schedules as well as charter carriers.

(4) “Helicopter” means an aircraft whose support in the air is derived chiefly from the aerodynamic forces acting on one or more rotors turning about on substantially vertical axes.

(5) “Private carrier” means any firm, partnership, joint venture, joint stock company, any public or private corporation, cooperative, trust, business trust or any other group or combination acting as a unit that is engaged in a primary business other than commercial air transportation that operates an aircraft for the transportation of employees or others for business purposes.

(6) “Salvage value” means the lower of fair market salvage value or five percent of the original cost of the property.
“Special aircraft property” means all aircraft owned or leased by commercial airlines or private carriers, or any parts, materials or items used in the construction, maintenance or repair of aircraft which are, or are intended to become, affixed to or a part of an aircraft or of an aircraft’s engine or of any other component of an aircraft, used as such, by a repair station as defined under Part 145 of Title 14 of the United States Code of Federal Regulations, or any succeeding regulations issued by the Federal Aviation Administration or any successor agency.

CHAPTER 230

(H. B. 2963 - By Delegates Nelson and Boggs)
[By Request of the Revenue Department]

[Passed April 5, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 26, 2017.]

AN ACT to amend and reenact §11-11-17a of the Code of West Virginia, 1931, as amended; relating to terminating on a certain date provisions by which domiciliary personal representatives of nonresident decedents may apply for certain releases.

Be it enacted by the Legislature of West Virginia:

That §11-11-17a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 11. ESTATE TAXES.

§11-11-17a. Discharge of nonresident decedent’s real property in absence of ancillary administration, termination.
(a) The domiciliary personal representative of a nonresident decedent may apply to the Tax Commissioner for a certificate releasing all real property situate in this state included in decedent’s gross estate from any lien imposed by section seventeen of this article. In the absence of ancillary administration in this state, the Tax Commissioner may consider reliable and satisfactory evidence furnished by the personal representative regarding the value of real property and the amount of tax due under this article, or that no tax liability exists under this article with respect to any real property.

(b) If the Tax Commissioner determines that reliable and satisfactory evidence exists, an affidavit of value submitted by the personal representative made pursuant to and in conjunction with the evidence shall be marked as inspected by the commissioner and shall be filed by the estate in the county or counties of this state where the real property is situate.

(c) In determining tax liability, the Tax Commissioner may also consider an appraisal of the real property submitted in writing to the Tax Commissioner, paid for by the personal representative and made at the personal representative’s request. The appraisal shall be performed by a licensed real estate appraiser acceptable to the Tax Commissioner and it shall be filed in the county or counties where the real property is situate.

(d) If the Tax Commissioner is satisfied that no tax liability exists, or that the tax liability of the estate has been fully discharged, the Tax Commissioner may issue a certificate under subsection (f), section seventeen of this article.

(e) On and after July 1, 2017, the provisions of this section have no force or effect.
AN ACT to amend and reenact §11-13W-1 of the Code of West Virginia, 1931, as amended, relating to tax credits for apprenticeship training in construction trades; removing requirement that eligibility is limited to programs jointly administered by labor and management trustees; conforming provisions to current law.

Be it enacted by the Legislature of West Virginia:

That §11-13W-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 13W. APPRENTICESHIP TRAINING TAX CREDITS.

§11-13W-1. Tax credits for apprenticeship training in construction trades.

(a) Credit allowed. - For those tax years beginning on or after January 1, 2008, there is allowed a credit for any taxpayer against certain taxes imposed by this state as described in subsection (d) of this section for wages paid to apprentices in the construction trades who are registered with the United States Department of Labor, Office of Apprenticeship, West Virginia State Office, by the taxpayer in the tax year that an apprentice and taxpayer participate in a qualified apprenticeship training program, as described in this section, which is:
(1) Administered pursuant to 29 U.S.C. Section 50; and
(2) Certified in accordance with regulations adopted by
the United States Bureau of Apprenticeship and Training or
the successor agency of that bureau.

(b) Amount of credit. - The tax credit equals $2 per hour
multiplied by the total number of hours worked during the
tax year by an apprentice working for the participating
taxpayer, and the amount of credit allowed for any tax year
with respect to each apprentice may not exceed $2,000, or
fifty percent of actual wages paid in that tax year for the
apprenticeship, whichever is less.

(c) Qualified apprenticeship training program
requirements. — In addition to the qualifications specified
in subsection (a) of this section, a qualified apprenticeship
training program consists of at least two thousand but not
more than ten thousand hours of on-the-job apprenticeship
training for certification of the apprenticeship by the United
States Bureau of Apprenticeship and Training or the
successor agency of the bureau.

(d) Application of annual credit allowance. - The
amount of credit as determined under subsection (b) of this
section is allowed as a credit against the taxpayer’s state tax
liability applied as provided in subdivisions (1) through (2),
inclusive, of this subsection, and in that order.

(1) Corporation net income taxes. - The credit must first
be applied to reduce the taxes imposed by article twenty-
four of this chapter for the taxable year.

(2) Personal income taxes. — After application of
subdivision (1) of this subsection, any unused credit is next
applied as follows:

(A) If the person making the qualified investment is an
electing small business corporation (as defined in Section
1361 of the United States Internal Revenue Code of 1986,
as amended), a partnership, a limited liability company that
is treated as a partnership for federal income tax purposes, or a sole proprietorship, then any unused credit (after application of subdivision (1) of this subsection) is allowed as a credit against the taxes imposed by article twenty-one of this chapter on the income from business or other activity on income of a sole proprietor attributable to the business.

(B) Electing small business corporations, limited liability companies, partnerships and other unincorporated organizations shall allocate the credit allowed by this article among its members in the same manner as profits and losses are allocated for the taxable year.

(3) A credit is not allowed under this section against any employer withholding taxes imposed by article twenty-one of this chapter.

(e) Unused credit. — If any credit remains after application of subsection (d) of this section, that amount is forfeited. A carryback to a prior taxable year is not allowed for the amount of any unused portion of any annual credit allowance.

CHAPTER 232

(S. B. 25 - By Senators Karnes, Rucker and Sypolt)

[Passed April 8, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 20, 2017.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13DD-1, §11-13DD-2, §11-13DD-3, §11-13DD-4, §11-13DD-5, §11-13DD-6 and §11-13DD-7, all relating to creation of farm-to-food bank tax credit; defining terms; providing method for calculation of value of tax credit; limiting tax credit; providing for certification by Department of Agriculture; allowing
carryover of unused tax credits for four years; providing for
rulemaking; and establishing effective date of tax credit.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be
amended by adding thereto a new article, designated §11-13DD-
1, §11-13DD-2, §11-13DD-3, §11-13DD-4, §11-13DD-5, §11-
13DD-6 and §11-13DD-7, all to read as follows:

ARTICLE 13DD. WEST VIRGINIA FARM-TO-FOOD
BANK TAX CREDIT.

§11-13DD-1. Findings and purpose.

The Legislature finds that it is an important public
policy to promote fresh, healthy and local agricultural
products for food banks and to provide an incentive for
farmers to donate to food banks in this state by providing a
tax credit for their donations.


As used in this article:

(1) “Department” means the Department of Agriculture;

(2) “Donor” means a qualified taxpayer who provides
free of fee or charge edible agricultural products to a
nonprofit food program operating in West Virginia;

(3) “Edible agricultural products” means fruits,
vegetables, beef, poultry, pork, fish or any other edible
product raised or grown in West Virginia that is intended
for, and fit for, human consumption;

(4) “Farming taxpayer” means a West Virginia taxpayer
responsible for, and deriving income of, at least $1,000 from
growing fruits, vegetables or other edible agricultural
products or from raising beef, poultry, pork, fish or other
edible agricultural products; and
(5) “Nonprofit food program” means a surplus food collection and distribution program operated and established to collect donated food for redistribution to persons in need and is recognized as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code.

§11-13DD-3. Amount of credit; limitation of credit.

(a) There is allowed to farming taxpayers who make donations of edible agricultural products to one or more nonprofit food programs in this state a credit against taxes imposed by articles twenty-one and twenty-four of this chapter in the amount set forth in subsection (b) of this section.

(b) The amount of the credit is equal to ten percent of the value of the donated edible agricultural products, but not to exceed $2,500 during a taxable year or the total amount of tax imposed by article twenty-one or twenty-four of this chapter, whichever is less, in the year of donations.

(c) If the amount of the credit exceeds the taxpayer’s tax liability for the taxable year, the amount which exceeds the tax liability may be carried over and applied as a credit against the tax liability of the taxpayer pursuant to article twenty-one or twenty-four of this chapter to each of the next four taxable years unless sooner used.

(d) No more than $200,000 of tax credits may be allocated to the department in any fiscal year. The department shall allocate the tax credits in the order the donation forms are received.

§11-13DD-4. Determination of value of credit.

(a) The donor shall determine the value of the donated edible agricultural products as follows:

(1) If there was a previous sale of the edible agricultural products to a buyer, the donor should retain a copy of an
(2) If there is no previous sale to a buyer, the donor shall on the date of the donation, determine the value of the donated edible agricultural products based on the fair market value as determined by average weekly regional produce auction prices or United States Department of Agriculture prices for meat, fish and dairy products.

(b) At the time of the donation, the donor shall provide to the nonprofit food program the estimated value of the donated edible agricultural products as determined herein. The nonprofit food program shall provide to the donor a signed and dated form prescribed by the department containing at a minimum:

(1) The type and quantity of product donated;

(2) The name, address and taxpayer identification number of the donor or donors;

(3) The name and address of the donee nonprofit food program; and

(4) The estimated value of the donated edible agricultural products, as provided by the donor.

(c) To claim the tax credit, a qualified farming taxpayer shall send the donation form from the nonprofit food program to the department for certification.

§11-13DD-5. Legislative rules.

(a) The Tax Commissioner shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code as may be necessary to carry out the purposes of this article.

(b) The Commissioner of Agriculture may propose rules for legislative approval in accordance with the provisions of
article three, chapter twenty-nine-a of this code as may be necessary to carry out the purposes of this article.

§11-13DD-6. Tax credit review report.

Beginning on the first day of the second taxable year after the passage of this article and every two years thereafter, the department shall submit to the Governor, the President of the Senate and the Speaker of the House of Delegates a tax credit review and accountability report evaluating the cost effectiveness of the tax credit and donations during the most recent two-year period for which information is available.

§11-13DD-7. Effective date.

The credit allowed by this article shall be allowed upon donations occurring after December 31, 2017.

CHAPTER 233

(S. B. 364 - By Senators Carmichael (Mr. President) and Prezioso) [By Request of the Executive]

[Passed April 4, 2017; in effect ninety days from passage.] [Approved by the Governor on April 18, 2017.]

AN ACT to amend and reenact §11-15B-2a and §11-15B-32 of the Code of West Virginia, 1931, as amended, all relating to incorporating changes to the Streamlined Sales and Use Tax Agreement; and providing new effective dates.

Be it enacted by the Legislature of West Virginia:

That §11-15B-2a and §11-15B-32 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:
ARTICLE 15B. SALES AND USE TAX ADMINISTRATION.


As used in this article and articles fifteen and fifteen-a of this chapter, the term “Streamlined Sales and Use Tax Agreement” or “agreement” means the agreement adopted November 12, 2002, by states that enacted authority to engage in multistate discussions similar to that provided in section four of this article, except when the context in which the term is used clearly indicates that a different meaning is intended by the Legislature. “Agreement” includes amendments to the agreement adopted by the implementing states in calendar years 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012 and amendments adopted by the governing board on or before, January 31, 2017, but does not include any substantive changes in the agreement adopted after January 31, 2017.

§11-15B-32. Effective date.

(a) The provisions of this article, as amended or added during the regular legislative session in the year 2003, shall take effect January 1, 2004, and apply to all sales made on or after that date and to all returns and payments due on or after that day, except as otherwise expressly provided in section five of this article.

(b) The provisions of this article, as amended or added during the second extraordinary legislative session in the year 2003, shall take effect January 1, 2004, and apply to all sales made on or after that date.

(c) The provisions of this article, as amended or added by act of the Legislature in the year 2004 shall apply to all sales made on or after the date of passage in the year 2004.

(d) The provisions of this article, as amended or added during the regular legislative session in the year 2008, shall apply to all sales made on or after the date of passage and to all returns and payments due on or after that day, except as otherwise expressly provided in this article.
(e) The provisions of this article, as amended or added during the 2009 regular legislative session, shall apply to all sales made on or after the date of passage and to all returns and payments due on or after that day, except as otherwise expressly provided in this article.

(f) The provisions of this article, as amended or added during the 2010 regular legislative session, shall apply to all sales made on or after the date of passage and to all returns and payments due on or after that day, except as otherwise expressly provided in this article.

(g) The provisions of this article, as amended or added during the 2012 regular legislative session, shall apply to all sales made on or after the date of passage and to all returns and payments due on or after that day, except as otherwise expressly provided in this article.

(h) The provisions of this article, as amended or added during the 2017 regular legislative session, shall apply to all sales made on or after the date of passage and to all returns and payments due on or after that day, except as otherwise expressly provided in this article.

CHAPTER 234

(H. B. 2594 - By Mr. Speaker (Mr. Armstead) and Delegate Miley)
[By Request of the Executive]

[Passed March 14, 2017; in effect from passage.]
[Approved by the Governor on March 23, 2017.]

AN ACT to amend and reenact §11-21-9 of the Code of West Virginia, 1931, as amended, relating to updating the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act; and specifying effective dates.
Be it enacted by the Legislature of West Virginia:

That §11-21-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 21. WEST VIRGINIA PERSONAL INCOME TAX.


(a) Any term used in this article has the same meaning as when used in a comparable context in the laws of the United States relating to income taxes, unless a different meaning is clearly required. Any reference in this article to the laws of the United States means the provisions of the Internal Revenue Code of 1986, as amended, and any other provisions of the laws of the United States that relate to the determination of income for federal income tax purposes. All amendments made to the laws of the United States after December 31, 2015, but prior to January 1, 2017, shall be given effect in determining the taxes imposed by this article to the same extent those changes are allowed for federal income tax purposes, whether the changes are retroactive or prospective, but no amendment to the laws of the United States made on or after January 1, 2017, may be given any effect.

(b) Medical savings accounts. — The term “taxable trust” does not include a medical savings account established pursuant to section twenty, article fifteen, chapter thirty-three of this code or section fifteen, article sixteen of that chapter. Employer contributions to a medical savings account established pursuant to those sections are not wages for purposes of withholding under section seventy-one of this article.

(c) Surtax. — The term “surtax” means the twenty percent additional tax imposed on taxable withdrawals from a medical savings account under section twenty, article fifteen, chapter thirty-three of this code and the twenty percent additional tax imposed on taxable withdrawals from
a medical savings account under section fifteen, article sixteen of that chapter which are collected by the Tax Commissioner as tax collected under this article.

(d) Effective date. — The amendments to this section enacted in the year 2017 are retroactive to the extent allowable under federal income tax law. With respect to taxable years that began prior to January 1, 2017, the law in effect for each of those years shall be fully preserved as to that year, except as provided in this section.

(e) For purposes of the refundable credit allowed to a low income senior citizen for property tax paid on his or her homestead in this state, the term “laws of the United States” as used in subsection (a) of this section means and includes the term “low income” as defined in subsection (b), section twenty-one of this article and as reflected in the poverty guidelines updated periodically in the federal register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. § 9902(2).

CHAPTER 235
(S. B. 433 - By Senator Trump)

[Passed April 7, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 24, 2017.]

AN ACT to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to permitting counties to increase the excise tax on the privilege of transferring real property.

Be it enacted by the Legislature of West Virginia:

That §11-22-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:
ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.

§11-22-2. Rate of tax; when and by whom payable; additional county tax.

(a) Every person who delivers, accepts or presents for recording any document, or in whose behalf any document is delivered, accepted or presented for recording, is subject to pay for, and in respect to the transaction or any part thereof, a state excise tax upon the privilege of transferring title to real estate at the rate of $1.10 for each $500 value or fraction thereof as represented by the document as defined in section one of this article. The state tax is payable at the time of delivery, acceptance or presenting for recording of the document. In addition to the state excise tax described in this subsection, there is assessed a fee of $20 upon the privilege of transferring real estate for consideration. The clerk of the county commission shall collect the additional $20 fee before recording a transfer of title to real estate and shall deposit the moneys from the additional fees into the West Virginia Affordable Housing Trust Fund as provided in article eighteen-d, chapter thirty-one of this code. The moneys collected from this additional fee shall be segregated from other funds in the West Virginia Affordable Housing Trust Fund and shall be accounted for separately. Not more than ten percent of these additional moneys may be expended by the West Virginia Affordable Housing Trust Fund to defray administrative and operating costs and expenses actually incurred by the West Virginia Affordable Housing Trust Fund. The Housing Development Fund, as fiscal agent of the West Virginia Affordable Housing Trust Fund, shall publish monthly on the Internet site an accounting of all revenue deposited into the fund during the month and a full disclosure of all expenditures from the fund including the group receiving funds, their location and any contractor awarded the construction contract. Additionally, the West Virginia Affordable Housing Trust Fund is to provide an annual
report to the Joint Committee on Government and Finance before December 1, 2007, and each year thereafter.

(b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise tax for the privilege of transferring title to real estate at the rate of 55 cents for each $500 value or fraction thereof as represented by such document as defined in section one of this article, which county tax shall be payable at the time of delivery, acceptance or presenting for recording of such document: Provided, That after July 1, 1989, the county may increase said excise tax to an amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county tax and to be used for county purposes: Provided, however, That after July 1, 2017, the county may increase the excise tax to an amount not to exceed $1.65 for each $500 value, or fraction thereof, as represented by a document as defined in section one of this article: Provided further, That only one such state tax and one such county tax shall be paid on any one document and shall be collected in the county where the document is first admitted to record and the tax shall be paid by the grantor therein unless the grantee accepts the document without such tax having been paid, in which event such tax shall be paid by the grantee: And provided further, That on any transfer of real property from a trustee or a county clerk transferring real estate sold for taxes, such tax shall be paid by the grantee. The county excise tax imposed under this section may not be increased in any county unless the increase is approved by a majority vote of the members of the county commission of such county. Any county commission intending to increase the excise tax imposed in its county shall publish a notice of its intention to increase such tax not less than thirty days nor more than sixty days prior to the meeting at which such increase will be considered, such notice to be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area shall be the county in which such county commission is located.
AN ACT to amend and reenact §11-24-3 of the Code of West Virginia, 1931, as amended, relating to updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act; and specifying effective dates.

Be it enacted by the Legislature of West Virginia:

That §11-24-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-3. Meaning of terms; general rule.

(a) Any term used in this article has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required by the context or by definition in this article. Any reference in this article to the laws of the United States means the provisions of the Internal Revenue Code of 1986, as amended, and any other provisions of the laws of the United States that relate to the determination of income for federal income tax purposes. All amendments made to the laws of the United States after December 31, 2015, but prior to January 1, 2017, shall be given effect in determining the taxes imposed by this article to the same extent those changes are allowed for federal income tax purposes, whether the changes are retroactive or prospective, but no
amendment to the laws of the United States made on or after January 1, 2017, shall be given any effect.

(b) The term “Internal Revenue Code of 1986” means the Internal Revenue Code of the United States enacted by the federal Tax Reform Act of 1986 and includes the provisions of law formerly known as the Internal Revenue Code of 1954, as amended, and in effect when the federal Tax Reform Act of 1986 was enacted that were not amended or repealed by the federal Tax Reform Act of 1986. Except when inappropriate, any reference in any law, executive order or other document:

(1) To the Internal Revenue Code of 1954 includes a reference to the Internal Revenue Code of 1986; and

(2) To the Internal Revenue Code of 1986 includes a reference to the provisions of law formerly known as the Internal Revenue Code of 1954.

(c) Effective date. — The amendments to this section enacted in the year 2017 are retroactive to the extent allowable under federal income tax law. With respect to taxable years that began prior to January 1, 2017, the law in effect for each of those years shall be fully preserved as to that year, except as provided in this section.

CHAPTER 237

(Com. Sub. for S. B. 486 - By Senators Takubo and Stollings)

[Passed April 7, 2017; in effect July 1, 2017.]
[Approved by the Governor on April 25, 2017.]

AN ACT to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating to health care provider taxes; making conforming amendments consistent with
federal law; changing the rate of tax on eligible acute care hospitals for fiscal year 2018; modifying eligibility criteria for “eligible acute care hospital”; removing conditions precedent for taxation; changing condition precedent for the automatic suspension of taxation; specifying purposes for which funds may be collected; providing for distribution of remaining funds at the end of fiscal year; providing for an effective date; and extending the expiration date for the tax.

Be it enacted by the Legislature of West Virginia:

That §11-27-38 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 27. HEALTH CARE PROVIDER TAXES.

§11-27-38. Contingent increase of tax rate on certain eligible acute care hospitals.

(a) In addition to the rate of the tax imposed by sections nine and fifteen of this article on providers of inpatient and outpatient hospital services, there is imposed on certain eligible acute care hospitals an additional tax of seventy-five one-hundredths of one percent on the gross receipts received or receivable by eligible acute care hospitals that provide inpatient or outpatient hospital services in this state through a directed payment program, or its successor, in accordance with 42 C. F. R. 438.6.

(b) For purposes of this section, the term “eligible acute care hospital” means any inpatient or outpatient hospital conducting business in this state that is not:

(1) A state-owned or -designated facility;

(2) A critical access hospital, designated as a critical access hospital after meeting all federal eligibility criteria;

(3) A licensed free-standing psychiatric or medical rehabilitation hospital; or

(4) A licensed long-term acute care hospital.
(c) There is continued a special revenue account in the State Treasury designated the Medicaid State Share Fund. The amount of taxes collected under this section, including any interest, additions to tax and penalties collected under article ten of this chapter, less the amount of allowable refunds, the amount of any interest payable with respect to such refunds and costs of administration and collection, shall be deposited into the Special Revenue Fund and may not revert to general revenue. The Tax Commissioner shall establish and maintain a separate account and accounting for the funds collected under this section in an account to be designated as the Eligible Acute Care Provider Enhancement Account. The amounts collected shall be deposited, within fifteen days after receipt by the Tax Commissioner, into the Eligible Acute Care Provider Enhancement Account. Disbursements from the Eligible Acute Care Provider Enhancement Account within the Medicaid State Share Fund may only be used to support West Virginia Medicaid and the directed payment program, or its successor, in accordance with 42 C. F. R. 438.6 and as otherwise set forth in this section.

(d) The imposition and collection of taxes imposed by this section is suspended immediately upon the occurrence of any of the following:

(1) The effective date of any action by Congress that would disqualify the taxes imposed by this section from counting toward state Medicaid funds available to be used to determine the federal financial participation;

(2) The effective date of any decision, enactment or other determination by the Legislature or by any court, officer, department, agency of office of state or federal government that has the effect of disqualifying the tax from counting toward state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds or creating for any reason a failure of the state to use the assessment of the Medicaid program as described in this section; and
(3) If the tax payments remitted by the eligible acute care hospitals are not used to effectuate the provisions of this article.

(e) Any funds remaining in the Eligible Acute Care Provider Enhancement Account as of June 30, 2017, shall be transferred to the West Virginia Medical Services Fund. This transfer shall occur no later than September 30, 2017. These funds shall be used during state fiscal year 2018 at the discretion of the Bureau for Medical Services.

(f) The changes to the tax rate in this section enacted in the 2017 regular session are effective July 1, 2017.

(g) The tax imposed by this section expires on and after June 30, 2018, unless otherwise extended by the Legislature.

CHAPTER 238

(Com. Sub. for S. B. 535 - By Senators Carmichael (Mr. President) and Prezioso) [By Request of the Executive]

[Pasصد April 8, 2017; in effect ninety days from passage.] [Approved by the Governor on April 24, 2017.]

AN ACT to repeal §5B-2-8, §5B-2-8a, §5B-2-9, §5B-2-11, §5B-2-12 and §5B-2-12a of the Code of West Virginia, 1931, as amended; to amend and reenact §5B-1-2 of said code; and to amend said code by adding thereto a new article, designated §5B-2I-1, §5B-2I-2, §5B-2I-3, §5B-2I-4, §5B-2I-5, §5B-2I-6, §5B-2I-7 and §5B-2I-8, all relating generally to tourism promotion; continuing the West Virginia Division of Tourism Office; creating the West Virginia Tourism Act of 2017; creating the position of Executive Director of the West Virginia Tourism Office and setting forth the authority of the
executive director; authorizing the Governor to appoint the executive director and set his or her salary; clarifying that the executive director shall serve as Commissioner of Tourism until establishment of the West Virginia Tourism Office; making the position of executive director one of will and pleasure; establishing qualifications for the position of executive director; establishing powers and duties of the West Virginia Tourism Office; authorizing the West Virginia Tourism Office to enter into private-public agreements and to change and collect fees for goods and services it supplies; authorizing the West Virginia Tourism Office to retain services necessary to carry out its duties; establishing criteria for retaining services; authorizing the executive to employ necessary personnel and to contract for professional, technical and consulting services and purchase equipment and supplies; authorizing the executive director, at the consent of the Secretary of Commerce, to compile a list on classified service exempt positions; requiring the West Virginia Tourism Office to publish and disseminate an annual report; directing the West Virginia Tourism Office and its director to collaborate with the West Virginia Development Office; authorizing cancellation of contracts and joint venture agreements without further obligation of the state and setting the conditions precedent therefor; continuing the Tourism Promotion Fund in the State Treasury; directing that moneys in the fund be spent solely for tourism promotion; defining terms; exempting unspent moneys in fund from reverting to the General Revenue Fund; eliminating the Tourism Advertising Partnership Program effective July 1, 2017, with exceptions for resolution of outstanding obligations; directing the establishment of a cooperative advertising program within the West Virginia Tourism Office; authorizing the West Virginia Tourism Office to establish a fee schedule for participants in the cooperative advertising program; continuing an independent Tourism Commission within the Department of Commerce; establishing membership of Tourism Commission; requiring that gubernatorial appointments to the board be subject to the advice and consent of the Senate; setting forth qualifications of board members; establishing
duties of the commission; and providing that documents, data and other writings related to furnishing assistance to businesses, other than agreements entered into by the West Virginia Tourism Office or West Virginia Development Office which obligate public funds, are exempt from disclosure under the Freedom of Information Act.

Be it enacted by the Legislature of West Virginia:

That §5B-2-8, §5B-2-8a, §5B-2-9, §5B-2-11, §5B-2-12 and §5B-2-12a of the Code of West Virginia, 1931, as amended, be repealed; that §5B-1-2 of said code be amended and reenacted; and that said code be amended by adding thereto a new article, designated §5B-2I-1, §5B-2I-2, §5B-2I-3, §5B-2I-4, §5B-2I-5, §5B-2I-6, §5B-2I-7 and §5B-2I-8, all to read as follows:

ARTICLE 1. DEPARTMENT OF COMMERCE.

§5B-1-2. Agencies, boards, commissions, divisions and offices comprising the Department of Commerce.

The Department of Commerce consists of the following agencies, boards, commissions, divisions and offices, including all of the allied, advisory, affiliated or related entities, which are incorporated in and administered as part of the Department of Commerce:

1. Division of Labor provided in article one, chapter twenty-one of this code, which includes:

(A) Occupational Safety and Health Review Commission provided in article three-a, chapter twenty-one of this code; and

(B) Board of Manufactured Housing Construction and Safety provided in article nine, chapter twenty-one of this code;

2. Office of Miners’ Health, Safety and Training provided in article one, chapter twenty-two-a of this code. The following boards are transferred to the Office of Miners’ Health, Safety and Training for purposes of
administrative support and liaison with the Office of the Governor:

(A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review Committee provided in article six, chapter twenty-two-a of this code;

(B) Board of Miner Training, Education and Certification provided in article seven, chapter twenty-two-a of this code; and

(C) Mine Inspectors’ Examining Board provided in article nine, chapter twenty-two-a of this code;

(3) The West Virginia Development Office provided in article two, chapter five-b of this code;

(4) Division of Natural Resources and Natural Resources Commission provided in article one, chapter twenty of this code;

(5) Division of Forestry provided in article one-a, chapter nineteen of this code;

(6) Geological and Economic Survey provided in article two, chapter twenty-nine of this code;

(7) Workforce West Virginia provided in chapter twenty-one-a of this code, which includes:

(A) Division of Unemployment Compensation;

(B) Division of Employment Service;

(C) Division of Workforce Development; and

(D) Division of Research, Information and Analysis;

(8) Division of Energy provided in article two-f, chapter five-b of this code; and
ARTICLE 2I. WEST VIRGINIA TOURISM OFFICE.

§5B-2I-1. Short title.

This article shall be known and cited as the West Virginia Tourism Act of 2017.

§5B-2I-2. West Virginia Tourism Office.

The Division of Tourism is continued within the Department of Commerce but is hereafter designated and shall be known as the West Virginia Tourism Office. All references in this code to the Division of Tourism shall be construed as references to the West Virginia Tourism Office.

§5B-2I-3. Appointment and compensation of the Executive Director of the West Virginia Tourism Office.

(a) The West Virginia Tourism Office is under the direction and charge of the Executive Director of the West Virginia Tourism Office.

(b) The Executive Director shall be appointed by the Governor: Provided, That the person serving as Commissioner of Tourism at the time of enactment of this section in 2017, shall be the Executive Director of the West Virginia Tourism Office and serve at the will and pleasure of the Governor. The executive director’s salary shall be set by the Governor. The executive director shall be a competent person, having executive ability and knowledge of publicity, advertising and tourism promotion.

§5B-2I-4. Powers and duties of the West Virginia Tourism Office.

(a) The West Virginia Tourism Office, under the direction and charge of the Executive Director of the West Virginia Tourism Office, shall develop and implement a
comprehensive tourism advertising, promotion and development strategy for West Virginia. “Comprehensive tourism advertising, promotion and development strategy” means a plan that outlines strategies and activities designed to continue, diversify and expand the tourism base of the state as a whole; create tourism jobs; develop a highly skilled tourism workforce; facilitate business access to capital for tourism; advertise and market the resources offered by the state with respect to tourism advertising, promotion and development; facilitate cooperation among local, regional and private tourism enterprises; improve infrastructure on a state, regional and community level in order to facilitate tourism development; improve the tourism business climate generally; and leverage funding from sources other than the state, including local, federal and private sources. In addition to all other power and duties of the West Virginia Tourism Office by other provisions of this code, the West Virginia Tourism Office shall:

(1) Coordinate media events to promote a positive image of West Virginia and new investment in the tourist industry;

(2) Provide comprehensive strategic planning services to existing tourism enterprises;

(3) Promote attractions of West Virginia in other states;

(4) Provide advertising, marketing and communications goods and services, including, without limitation, a cooperative advertising program to facilitate and allow participation in the West Virginia Tourism Office’s advertising and marketing campaigns and activities, to state agencies, departments, units of state or local government, private tourism enterprises and other persons, entities or private enterprises, including, without limitation, convention and visitors’ bureaus; and
(5) Distribute West Virginia informational publications and manage the West Virginia Welcome Centers.

(b) In developing its strategies, plans and campaigns, the West Virginia Tourism Office shall consider the following:

(1) Improvement and expansion of existing tourism marketing and promotion activities;

(2) Promotion of cooperation among municipalities, counties and the West Virginia Infrastructure and Jobs Development Council in funding physical infrastructure to enhance the potential for tourism development.

(c) The West Virginia Tourism Office shall have the power and duty:

(1) To acquire for the state in the name of the West Virginia Tourism Office by purchase, lease or agreement, or accept or reject for the state, in the name of the West Virginia Tourism Office, gifts, donations, contributions, bequests or devises of money, security or property, both real and personal, and any interest in such property, to effectuate or support the purposes of this article;

(2) To make recommendations to the Governor and the Legislature of any legislation deemed necessary to facilitate the carrying out of any of the foregoing powers and duties and to exercise any other power that may be necessary or proper for the orderly conduct of the business of the West Virginia Tourism Office and the effective discharge of the duties of the West Virginia Tourism Office;

(3) To cooperate and assist in the production of motion pictures and television and other communications;

(4) To purchase advertising time or space in or upon any medium generally engaged or employed for said purpose to advertise and market the resources of the state or to inform the public at large or any specifically targeted group or
industry about the benefits of living in, investing in, producing in, buying from, contracting with, or in any other way related to, the State of West Virginia or any business, industry, agency, institution or other entity therein;

(5) To promote and disseminate information related to the attractions of the state through the operation of the state’s telemarketing initiative, which telemarketing initiative shall include a centralized reservation and information system for state parks and recreational facilities;

(6) To take such additional factors as may be necessary to carry out the duties and programs described in this article; and

(7) To provide assistance to and assist with retention and expansion of existing tourism-related enterprises in the state and to recruit or assist in the recruitment of new tourism-related enterprises to the state.

(d) The West Virginia Tourism Office may charge and collect reasonable fees for goods and services it provides to state agencies, departments, units of state or local government or other person, entity or enterprise. All moneys collected by the West Virginia Tourism Office shall be deposited in the Tourism Promotion Fund and used in accordance with the provisions of this article.

(e) The West Virginia Tourism Office may engage and retain one or more advertising and marketing agencies, consultants, enterprises, firms or persons, as deemed by the Executive Director of the West Virginia Tourism Office, in his or her sole discretion, necessary or advisable to assist the West Virginia Tourism Office in carrying out its powers and duties as set forth in this article. In the procurement of advertising agencies, consultants, enterprises or persons, from time to time, estimated to cost $250,000 or more, the Executive Director of the West Virginia Tourism Office shall encourage such advertising and marketing agencies,
consultants, enterprises, firms or persons to submit an expression of interest, which shall include a statement of qualifications, including anticipated concepts and proposed advertising, marketing and advertising campaigns. All potential contracts shall be announced by public notice published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. A committee of three to five representatives of the West Virginia Tourism Office and/or the Tourism Commission, as selected by the chair of the Tourism Commission, shall evaluate the statements of qualifications and other materials submitted by interested firms and select three firms which, in their opinion, are best qualified to perform the desired service. The committee shall then rank, in order of preference, the three firms selected and shall commence scope of service and price negotiations with the first ranked firm. If the West Virginia Tourism Office is unable to negotiate a satisfactory contract with the first ranked firm, at a fee determined to be fair and reasonable, price negotiations with the firm of second choice shall commence. Failing accord with the second ranked firm, the committee shall undertake price negotiations with the third ranked firm. If the West Virginia Tourism Office is unable to negotiate a satisfactory contract with any of the selected firms, the office shall select additional firms in order of their competence and qualifications and it shall continue negotiations in accordance with this section until an agreement is reached.

If the procurement of the services is estimated by the executive director to cost less than $250,000, the West Virginia Tourism Office shall conduct discussions with three or more firms solicited on the basis of known or submitted qualifications for the assignment prior to the awarding of any contract: Provided, That if a judgment is made that special circumstances exist and that seeking competition is not practical, the West Virginia Tourism Office may, with the prior written approval of the Secretary of Commerce, select a firm on the basis of previous
satisfactory performance and knowledge of the West Virginia Tourism Office’s needs. After selection, the West Virginia Tourism Office and selected firm shall develop the scope of desired services and negotiate a contract.

(f) The Executive Director of the West Virginia Tourism Office may, in order to carry out the powers and duties of the West Virginia Tourism Office described in this article, employ necessary personnel, contract with professional or technical experts or consultants and purchase or contract for the necessary equipment or supplies.

(g) The Executive Director of the West Virginia Tourism Office may designate, in writing, with the written consent of the Secretary of Commerce, a list of positions within the West Virginia Tourism Office that shall be exempt from coverage under the state’s classified service.

(h) The West Virginia Tourism Office shall submit a report annually to the Governor, Secretary of Commerce and the Legislature about the development of the tourism industry in the state and the necessary funding required by the state to continue the development of the tourism industry.

(i) The West Virginia Tourism Office and the Executive Director of the West Virginia Tourism Office shall engage, collaborate, assist and cooperate with the West Virginia Development Office, when and as appropriate, to facilitate retention, expansion, recruitment and location of existing and new tourism-related enterprises.

§5B-2I-5. Public-private partnerships.

(a) The West Virginia Tourism Office may enter into contractual or joint venture agreements with one or more nonprofit corporations organized pursuant to the corporate laws of the state, organized to permit qualification pursuant to Section 501(c) of the Internal Revenue Code and organized for purposes of the promotion and development
of tourism in West Virginia, and funded from sources other
than the state. Members of the Tourism Commission
provided in this article are authorized to sit on the board of
directors of such private nonprofit corporations.

(b) From time to time the West Virginia Tourism Office
may enter into joint ventures wherein the West Virginia
Development Office and one or more said nonprofit
corporations share in the development and funding of
tourism advertising, promotion and development programs
and campaigns.

(c) All contracts and joint venture agreements entered
into pursuant to this section for longer than one fiscal year
shall contain, in substance, a provision that the contract shall
be considered canceled without further obligation on the
part of the state if the Legislature, or, where appropriate, the
federal government shall fail to appropriate sufficient funds
therefor or shall act to impair the contract or cause it to be
canceled.

§5B-2I-6. Tourism Promotion Fund; use of funds.

(a) There is continued in the State Treasury the special
revenue fund known as the Tourism Promotion Fund
created under prior enactment of section nine, article one,
chapter five-b of this code.

(b) Moneys deposited in the fund each year shall be used
solely for marketing, direct advertising, business
development and public relations promoting travel and
tourism within the state and the state’s image and brand
identity at the discretion and direction of the Executive
Director of the West Virginia Tourism Office. “Direct
advertising” means advertising which includes, but is not
limited to, television, radio, mailings, newspaper,
magazines, digital marketing, including the Internet and
social media, and outdoor billboards or any combination
thereof. Any balance remaining at the end of any fiscal year
does not revert to the General Revenue Fund, but shall
remain in the fund for expenditures in accordance with the provisions of this section.

(c) Effective July 1, 2017, the Tourism Advertising Partnership Program and all related legislative or procedural rules shall cease, except as necessary for the Tourism Commission to settle, finalize and conclude all outstanding advertising grants or other financial obligations of the Tourism Commission respecting funds in the Tourism Promotion Fund previously approved, expended or obligated by the Tourism Commission as of the effective date of this article pursuant to subdivision (2), subsection (e), section seven of this article and be replaced by a cooperative advertising program to be created and established by the West Virginia Tourism Office, under and pursuant to section four of this article, to offer, facilitate and allow participation in the West Virginia Tourism Office’s advertising and marketing campaigns and activities, to state agencies, departments, units of state or local government, private tourism enterprises and other persons, entities or private enterprises, including, without limitation, convention and visitors’ bureaus. The Executive Director of the West Virginia Tourism Office shall establish and publish a fee schedule, which shall include a match of state funds to program participant’s funds, for participation in the cooperative advertising program.

§5B-2I-7. Tourism Commission; members, appointment and expenses.

(a) There is continued within the Department of Commerce an independent Tourism Commission, which is a body corporate and politic, constituting a public corporation and government instrumentality.

(b) The Tourism Commission consists of the following fifteen members:

(1) The Secretary of Commerce, or his or her designee, ex officio;
(2) The Secretary of Transportation or his or her designee, ex officio;

(3) Twelve members appointed by the Governor, with the advice and consent of the Senate, representing participants in the state’s tourism industry. Ten of the members shall be from the private sector, one shall be a director employed by a convention and visitors bureau and one shall be a member of a convention and visitors bureau. In making the appointments, the Governor may select from a list provided by the West Virginia Hospitality and Travel Association of qualified applicants. Of the twelve members so appointed, no less than three shall be from each congressional district within the state and shall be appointed to provide the broadest geographic distribution which is feasible;

(4) One member to be appointed by the Governor to represent public sector nonstate participants in the tourism industry within the state.

(c) Each member appointed by the Governor serves a staggered term of four years. Any member whose term has expired serves until his or her successor has been appointed. Any person appointed to fill a vacancy serves only for the unexpired term. Any member is eligible for reappointment. In case of a vacancy in the office of a member, the vacancy shall be filled by the Governor in the same manner as the original appointment.

(d) The chair of the Tourism Commission shall be appointed by the Governor from members then serving on the commission, and serves at the will and pleasure of the Governor.

(e) The Tourism Commission shall:

(1) Assist the Executive Director of the West Virginia Tourism Office in the development and implementation of
the state’s comprehensive tourism advertising, marketing, promotion and development strategy; and

(2) Take all actions necessary to settle, finalize and conclude all outstanding advertising grants or other financial obligations of the Tourism Commission respecting funds in the Tourism Promotion Fund previously approved, expended or obligated by the Tourism Commission as of the effective date of this article.

(f) Members of the Tourism Commission are not entitled to compensation for services performed as members. Each member from the private sector is entitled to reimbursement for reasonable expenses incurred in the discharge of their official duties. All expenses incurred by members from the private sector shall be paid in a manner consistent with guidelines of the Travel Management Office of the Department of Administration and are payable solely from the funds of the West Virginia Tourism Office or from funds appropriated for that purpose by the Legislature. Liability or obligation is not incurred by the West Virginia Tourism Office beyond the extent to which moneys are available from funds of the authority or from the appropriations.

(g) Members shall meet quarterly as designated by the chair.

§5B-2I-8. Confidentiality.

Any documentary material, data or other writing made or received by the West Virginia Tourism Office, the West Virginia Development Office or the Tourism Commission, for the purpose of furnishing assistance to a new or existing business are exempt from the provisions of article one, chapter twenty-nine-b of this code: Provided, That any agreement entered into or signed by the West Virginia Tourism Office or the West Virginia Development Office which obligates public funds is subject to inspection and copying pursuant to the provisions of that article as of the
AN ACT to amend and reenact §60-7-2 and §60-7-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-8-27 of said code, all relating generally to private club operations requirements; defining terms; permitting certain private club licensees that operate tourist destination and resort facilities to obtain one private resort hotel license for the lawful sale and consumption of alcoholic liquors and nonintoxicating beer in designated and approved areas throughout the licensed premises but within the confines of the property; permitting certain private club licensees that operate golf or country clubs to obtain one private golf club license for the lawful sale and consumption of alcoholic liquors and nonintoxicating beer on the premises of the facility; establishing license requirement; permitting patrons seventeen years of age to enter the licensed premises unaccompanied by a parent or legal guardian at private resort hotels and private golf clubs under limited circumstances, subject to certain conditions, and certain private clubs with designated nonalcohol areas; and establishing license fees.

Be it enacted by the Legislature of West Virginia:

That §60-7-2 and §60-7-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §61-8-27 of said code be amended and reenacted, all to read as follows:
CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-2. Definitions; power to lease building for establishment of private club.

1 Unless the context in which used clearly requires a different meaning, as used in this article:

2 (a) “Applicant” means a private club applying for a license under the provisions of this article.

3 (b) “Code” means the official code of West Virginia, 1931, as amended.

4 (c) “Commissioner” means the West Virginia Alcohol Beverage Control Commissioner.

5 (d) “Licensee” means the holder of a license to operate a private club granted under this article, which license shall remain unexpired, unsuspended and unrevoked.

6 (e) “Private club” means any corporation or unincorporated association which either: (1) Belongs to or is affiliated with a nationally recognized fraternal or veterans’ organization which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which club are admitted only duly elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests; or (2) is a nonprofit social club, which is operated exclusively for the benefit of its members, which pays no part of its income to
its shareholders or individual members, which owns or leases a building or other premises to which club are admitted only duly elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests; or (3) is organized and operated for legitimate purposes which has at least one hundred duly elected or approved dues-paying members in good standing, which owns or leases a building or other premises, including any vessel licensed or approved by any federal agency to carry or accommodate passengers on navigable waters of this state, to which club are admitted only duly elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment and employs a sufficient number of persons for serving meals to members and their guests; or (4) is organized for legitimate purposes and owns or leases a building or other delimited premises in any state, county or municipal park or at any airport, in which building or premises a club has been established, to which club are admitted only duly elected and approved dues-paying members in good standing and their guests while in the company of a member and to which club the general public is not admitted, and which maintains in connection with the club a suitable kitchen and dining facility and related equipment and employs a sufficient number of persons for serving meals in the club to the members and their guests.

(f) “Private resort hotel” means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:
(1) Has at least five thousand members;

(2) Offers short-term daily-rate accommodations or lodging for members and their guests amounting to at least fifty separate bedrooms;

(3) Operates a restaurant and full kitchen with ovens, six-burner ranges, walk-in freezers and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least twenty-five hours per week;

(4) Maintains, at any one time, $5,000 of fresh food inventory capable of being prepared in the private resort hotel’s full kitchen, and in calculating the food inventory the commissioner may not include microwavable, frozen or canned foods;

(5) Owns or leases, controls, operates and uses acreage amounting to at least ten contiguous acres of bounded or fenced real property which would be listed on the licensees’ floorplan and would be used for destination, resort and large contracted for group-type events such as weddings, reunions, conferences, meetings and sporting or recreational events;

(6) Lists the entire property from subdivision (5) of this subsection and all adjoining buildings and structures on the private resort hotel’s floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private resort hotel’s licensed premises and as noted on the private resort hotel’s floorplan;

(7) Has an identified person or persons or entity that has right, title and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises; and
(8) Utilizes an age verification system approved by the commissioner.

(g) “Private golf club” means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:

(1) Has at least one thousand members;

(2) Maintains at least one eighteen hole golf course with separate and distinct golf playing holes, not reusing nine golf playing holes to comprise the eighteen golf playing holes, a clubhouse, and offers golf carts, whether electric or gasoline;

(3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least fifteen hours per week;

(4) Owns or leases, controls, operates and uses acreage amounting to at least eighty contiguous acres of bounded or fenced real property which would be listed on the private golf club’s floorplan and could be used for golfing events and large contracted for group-type events such as weddings, reunions, conferences, meetings and sporting or recreational events;

(5) Lists the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private golf club’s floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted, in a building or structure or outdoors while on the private golf club’s licensed premises and as noted on the private golf club’s floorplan;

(6) Has an identified person or persons or entity that has right, title and ownership interest in the real property
buildings and structures located on the proposed licensed premises; and

(7) Utilizes an age verification system approved by the commissioner.

The Department of Natural Resources, the authority governing any county or municipal park, or any county commission, municipality, other governmental entity, public corporation or public authority operating any park or airport may lease as lessor a building or portion thereof or other limited premises in any such park or airport to any corporation or unincorporated association for the establishment of a private club pursuant to this article.

§60-7-6. Annual license fee; partial fee.

(a) The annual license fee for a license issued under the provisions of this article to a fraternal or veterans organization or a nonprofit social club shall be $750.

(b) The annual license fee for a license issued under the provisions of this article to a private club other than a private club of the type specified in subsection (a) of this section shall be $1,000 if the private club has less than one thousand members, $2,500 if the private club has one thousand or more members, $4,000 if the private club is a private golf club as defined in section two of this article, and further, if the private club is a private resort hotel as defined in section two of this article, said private resort hotel may designate areas within the licensed premises for the lawful sale, service and consumption of alcoholic liquors as provided for by this article. The annual license fee for a private resort hotel with five or fewer designated areas shall be $7,500, and the annual license fee for a private resort hotel with at least six but no more than ten designated areas shall be $12,500. The annual license fee for a private resort hotel with at least eleven but no more than fifteen designated areas shall be $17,500. The annual license fee for a private resort hotel with no fewer than fifteen nor more than twenty
designated areas shall be $22,500: Provided, That a private
resort hotel having obtained the license and paid the
$22,500 annual license fee may, upon application to and
approval of the commissioner, designate additional areas for
a period not to exceed seven days for an additional fee of
$150 per day, per designated area.

(c) The fee for any such license issued following
January 1 of any year and to expire on June 30 of such year
shall be one half of the annual license fee prescribed by
subsections (a) and (b) of this section.

(d) All such fees shall be paid by the commissioner to
the State Treasurer and credited to the General Revenue
Fund of the state.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY
AND DECENCY.

§61-8-27. Unlawful admission of children to dance house, etc.;
penalty.

Any proprietor or any person in charge of a dance house,
concert saloon, theater, museum, or similar place of
amusement, or other place, where wines or spirituous or
malt liquors are sold or given away, or any place of
entertainment injurious to health or morals who admits or
permits to remain therein any minor under the age of
eighteen years, unless accompanied by his or her parent or
guardian, is guilty of a misdemeanor and, on conviction
thereof, shall be punished by a fine not exceeding $200:
Provided, That there is exemption from this prohibition for:
(a) A private resort hotel and private golf club licensed
pursuant to article seven, chapter sixty of this code and in
compliance with subdivision (8), subsection (f), section two
of said article; or (b) a private club with more than one
thousand members that is in good standing with the Alcohol
Beverage Control Commissioner, that has been approved by
the Alcohol Beverage Control Commissioner and which has
designated certain seating areas on its licensed premises as nonalcoholic liquor and nonintoxicating beer areas, as noted in the licensee’s floorplan.

CHAPTER 240

(H. B. 2684 - By Delegates Canestraro, Lovejoy, Hollen, R. Miller, Shott and Isner)

[Passed April 8, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 25, 2017.]

AN ACT to amend and reenact §17B-4-3 of the Code of West Virginia, 1931, as amended, relating to imposing enhanced penalties for repeat violations of the prohibition against driving a motor vehicle on any public highway of this state at a time when the privilege to do so has been lawfully suspended for driving while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent by weight.

Be it enacted by the Legislature of West Virginia:

That §17B-4-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. VIOLATION OF LICENSE PROVISIONS.

§17B-4-3. Driving while license suspended or revoked; driving while license revoked for driving under the influence of alcohol, controlled substances or drugs, or while having alcoholic concentration in the blood of eight hundredths of one percent or more, by weight, or for refusing to take secondary chemical test of blood alcohol contents.
(a) Except as otherwise provided in subsection (b) or (d) of this section, any person who drives a motor vehicle on any public highway of this state at a time when his or her privilege to do so has been lawfully suspended or revoked by this state or any other jurisdiction is, for the first offense, guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $500; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $500; for the third or any subsequent offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than thirty days nor more than ninety days and shall be fined not less than $150 nor more than $500.

(b) Any person who drives a motor vehicle on any public highway of this state at a time when his or her privilege to do so has been lawfully revoked for driving under the influence of alcohol, controlled substances or other drugs, or any combination thereof, or for driving while having an alcoholic concentration in his or her blood of eight hundredths of one percent or more, by weight, or for refusing to take a secondary chemical test of blood alcohol content, is, for the first offense, guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than thirty days nor more than six months and shall be fined not less than $100 nor more than $500; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than six months nor more than one year and shall be fined not less than $1,000 nor more than $3,000; for the third or any subsequent offense, the person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than three years and, in addition to the mandatory prison sentence, shall be fined not less than $3,000 nor more than $5,000.

(c) Upon receiving a record of the first or subsequent conviction of any person under subsection (b) of this section
upon a charge of driving a vehicle while the license of that person was lawfully suspended or revoked, the division shall extend the period of the suspension or revocation for an additional period of six months which may be served concurrently with any other suspension or revocation. Upon receiving a record of the second or subsequent conviction of any person under subsection (a) of this section upon a charge of driving a vehicle while the license of that person was lawfully suspended or revoked, the division shall extend the period of the suspension or revocation for an additional period of ninety days which may be served concurrently with any other suspension or revocation.

(d) Any person who drives a motor vehicle on any public highway of this state at a time when his or her privilege to do so has been lawfully suspended for driving while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for twenty-four hours or shall be fined not less than $50 nor more than $500, or both; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than thirty days nor more than six months and shall be fined not less than $100 nor more than $500; for the third or any subsequent offense, the person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than three years and fined not less than $1,000 nor more than $5,000.

Upon receiving a record of a first or subsequent conviction under this subsection for a charge of driving a vehicle while the license of that person was lawfully suspended or revoked, the division shall extend the period of the suspension or revocation for an additional period of six months which may be served concurrently with any other suspension or revocation.
(e) An order for home detention by the court pursuant to the provisions of article eleven-b, chapter sixty-two of this code may be used as an alternative sentence to any period of incarceration required by this section.

CHAPTER 241

(H. B. 3053 - By Delegates Howell, Dean, Maynard, Blair, N. Foster, G. Foster, Harshbarger, Hill, McGeehan, Paynter and Queen)

[Passed April 6, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 14, 2017.]

AN ACT to amend and reenact §17C-15-2 and §17C-15-17 of the Code of West Virginia, 1931, as amended, all relating to motor vehicle lighting; clarifying when certain lights are functional; allowing certain lamps and lighting devices be uncovered in certain circumstances; and allowing two auxiliary lamps.

Be it enacted by the Legislature of West Virginia:

That §17C-15-2 and §17C-15-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 15. EQUIPMENT.

§17C-15-2. When lighted lamps are required.

Every vehicle other than a school bus, motorcycle, motor-driven cycle or moped operated upon a highway within this state at any time from sunset to sunrise, or during fog, smoke, rain or other unfavorable atmospheric conditions, or at any other time when there is not sufficient light to render clearly discernible persons and vehicles on
the highway at a distance of five hundred feet ahead, shall
display lighted head lamps and illuminating devices as
hereinafter respectively required for different classes of
vehicles, subject to exceptions with respect to parked
vehicles as provided for in subsection (c), section fifteen-c
of this article. Every school bus, motorcycle, motor-driven
cycle and moped shall display lighted head lamps at all
times when upon the highway. Lighted lamps and other
lighting devices that consist of multiple light-emitting
diodes (LEDs) or other illuminating components that
function as a single lighting unit are deemed to be functional
so long as at least sixty-six percent of the LEDs or other
illuminating components are functional: Provided, That the
lighted lamps or lighting devices must still project sufficient
illumination to satisfy all other requirements contained in
this article.

§17C-15-17. Spot lamps and other auxiliary lamps.

For the purposes of this section, a lamp or lighting
device meets the requirements specified below so long as
any portion of the illuminating surface of the lamp or
lighting device is within the specified range.

All lamps and lighting devices covered in this section
may be installed so that the entire lamp or lighting device
exceeds forty-two inches above the level surface upon
which the vehicle stands so long as such lamps or lighting
devices are either covered or dimmable.

(a) Spot lamps. — Any motor vehicle except a public
utility company maintenance vehicle may be equipped with
not more than one spot lamp and every lighted spot lamp
shall be so aimed and used upon approaching another
vehicle that no part of the high-intensity portion of the beam
will be directed to the left of the prolongation of the extreme
left side of the vehicle nor more than one hundred feet ahead
of the vehicle. A public utility company maintenance
vehicle may be equipped with more than one spot lamp but
(b) Fog lamps. — Any motor vehicle may be equipped with not more than two fog lamps mounted on the front at a height not less than twelve inches nor more than thirty inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle shall at a distance of twenty-five feet ahead project higher than a level of four inches below the level of the center of the lamp from which it comes.

(c) Auxiliary passing lamp. — Any motor vehicle may be equipped with not more than two auxiliary passing lamps mounted on the front at a height not less than twenty-four inches nor more than forty-two inches above the level surface upon which the vehicle stands and every auxiliary passing lamp shall meet the requirements and limitations set forth in this article.

(d) Auxiliary driving lamp. — Any motor vehicle may be equipped with not more than two auxiliary driving lamps mounted on the front at a height not less than sixteen inches nor more than forty-two inches above the level surface upon which the vehicle stands and every such auxiliary driving lamp shall meet the requirements and limitations set forth in this article.

(e) Roof-mounted off-road light bar lighting device. — Any motor vehicle may be equipped with a roof-mounted off-road light bar lighting device comprised of multiple lamps: Provided, That whenever the vehicle is operated or driven upon any road or highway of this state, the roof-mounted off-road light bar lighting device shall be turned off while the vehicle is being operated on any road or highway of this state.
CHAPTER 242

(S. B. 164 - By Senator Blair)

[Passed March 31, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 11, 2017.]

AN ACT to amend and reenact §17C-17-5 of the Code of West Virginia, 1931, as amended, relating to traffic regulations and special load limits; changing the load limitation of a digger or derrick line truck from forty feet to forty-five feet in length; increasing from six to nine feet the distance a load may extend beyond the foremost part of the truck; and increasing from nine to eleven feet the distance a load may extend beyond the rear of the body of the truck.

Be it enacted by the Legislature of West Virginia:

That §17C-17-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 17. SIZE, WEIGHT AND LOAD.

§17C-17-5. Special load limits.

(a) Subject to the foregoing provisions of this article limiting the length of vehicles and loads, the load upon any vehicle operated alone or the load upon the front vehicle of a combination of vehicles shall not extend more than three feet beyond the foremost part of the vehicle, and the load upon any vehicle operated alone or the load upon the rear vehicle of a combination of vehicles shall not extend more than six feet beyond the rear of the bed or body of such vehicle: Provided, That a digger/derrick line truck may be operated with a load of no more than forty-five feet in length, with the load extending no more than nine feet beyond the foremost part of the truck and no more than
eleven feet beyond the rear of the bed of the body of the truck, between sunrise and sunset except in an emergency, and the operation of the truck shall comply with the provisions of section fourteen, article fifteen of this chapter.

(b) The limitations as to length of vehicles and loads heretofore stated in section four of this article and subsection (a) of this section shall not apply to any load upon a pole trailer when transporting poles or pipes or structural material which cannot be dismembered: Provided, That no pole or pipe or other material exceeding eighty feet in length shall be so transported unless a permit has first been obtained as authorized in section eleven of this article.

CHAPTER 243

(Com. Sub. for H. B. 3064 - By Delegates Atkinson, Mr. Speaker, (Mr. Armstead), Hill, Sobonya, Westfall and Frich)

[Passed April 7, 2017; in effect ninety days from passage.] [Approved by the Governor on April 26, 2017.]

AN ACT to amend and reenact §17C-17-11 of the Code of West Virginia, 1931, as amended, relating to permitting the Commissioner of Highways to issue permits allowing vehicles of a size and weight exceeding certain specifications to operate over routes specified by the commissioner; requiring an engineering analysis; providing for maximum gross vehicle weight of 120,000; limiting routes to specified roads; and authorizing additional terms and conditions set by the Public Service Commission and the Commissioner of Highways.

Be it enacted by the Legislature of West Virginia:
That §17C-17-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 17. SIZE, WEIGHT AND LOAD.

§17C-17-11. Permits for excess size and weight.

(a) The Public Service Commission may, in its discretion, upon application in writing and good cause shown issue a special permit in writing authorizing: (1) The applicant, in crossing any highway of this state, to operate or move a vehicle or combination of vehicles of a size or weight or load exceeding the maximum specified in this chapter or otherwise not in conformity with the provisions of this chapter, whether the operation is continuous or not, provided the applicant agrees to compensate the commissioner of highways for all damages or expenses incurred in connection with the crossing; (2) the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicles or nondivisible load exceeding the maximum specified in this chapter or otherwise not in conformity with the provisions of this chapter; and (3) the applicant to move or operate, for limited or continuous operation, a vehicle hauling containerized cargo in a sealed, seagoing container to or from a seaport or inland waterway port that has or will be transported by marine shipment where the vehicle is not, as a result of hauling the container, in conformity with the provisions of this article relating to weight limitations, upon the conditions that: (A) The container be hauled only on the roadways and highways designated by the commissioner of highways; (B) the contents of the container are not changed from the time it is loaded by the consignor or the consignor’s agent to the time it is delivered to the consignee or the consignee’s agent; and (C) any additional conditions as the commissioner of highways or the Public Service Commission may impose to otherwise ensure compliance with the provisions of this chapter.
(b)(1) The commissioner of highways may issue a special permit to operate or move a vehicle or combination of vehicles of a size or weight of vehicles or nondivisible load exceeding the maximum specified in this chapter or otherwise not in conformity with the provisions of this chapter over routes designated by the commissioner of highways upon terms and restrictions prescribed by the Public Service Commission, together with the commissioner of highways.

(2) For purposes of this section, nondivisible load means any load exceeding applicable length or weight limits which, if separated into smaller loads or vehicles, would:

(A) Compromise the intended use of the vehicle, to the extent that the separation would make it unable to perform the function for which it was intended; (B) destroy the value of the load or vehicle, to the extent that the separation would make it unusable for its intended purpose; or (C) require more than eight workhours to dismantle using appropriate equipment: Provided, That the applicant for a nondivisible load permit has the burden of proof as to the number of workhours required to dismantle the load.

(3) The commissioner of highways may, in his or her discretion, upon application in writing and based upon an engineering analysis, issue a special permit in writing authorizing the applicant, when operating upon any highway of this state designated by the commissioner, to operate or move a vehicle or combination of vehicles, hauling commodities manufactured for interstate commerce, of a size or weight or divisible load exceeding the maximum specified in this chapter or otherwise not in conformity with the provisions of this chapter, whether the operation is continuous or not.

(A) The engineering analysis must demonstrate that the vehicle permitted under this subdivision does not adversely affect the designated routes when compared to the size, weight, and load provisions of this chapter.
(B) The maximum gross vehicle weight permitted under this subsection is 120,000 pounds.

(C) The permit may contain any additional conditions the commissioner of highways or the Public Service Commission may impose to otherwise ensure compliance with the provisions of this chapter.

c) The application for any permit other than a special annual permit shall specifically describe the vehicle or vehicles and load to be operated or moved along or across the highway and the particular highway or crossing of the highway for which the permit to operate is requested, and whether the permit is requested for a single trip or for a continuous operation.

d) The Public Service Commission is authorized to issue or withhold a permit at his or her discretion; or, if the permit is issued, to limit the number of trips, or to establish seasonal or other time limitations within which the vehicles described may be operated on or across the highways indicated, or otherwise to limit or prescribe conditions of operation of the vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surface, or structures, and may require the undertaking, bond or other security considered necessary to compensate for any injury to any roadway structure and to specify the type, number and the location for escort vehicles for any vehicle: Provided, That in establishing limitations on permits issued under this section, the Public Service Commission shall consult with the commissioner of highways, and may not issue, limit or condition a permit in a manner inconsistent with the authority of the commissioner of highways.

The Public Service Commission may charge a fee for the issuance of a permit for a mobile home and a reasonable fee for the issuance of a permit for any other vehicle under the provisions of this section to pay the administrative costs thereof.
(e) Every permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of the commissioner of highways or the Public Service Commission, and no person shall violate any of the terms or conditions of the special permit.

CHAPTER 244

(Com. Sub. for S. B. 5 - By Senators Trump and Sypolt)

[Passed April 1, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 11, 2017.]

AN ACT to amend and reenact §17E-1-9 and §17E-1-13 of the Code of West Virginia, 1931, as amended, all relating to disqualification from holding commercial driver’s license for certain convictions of driving a motor vehicle under the influence of alcohol or a controlled substance; clarifying that person committing disqualifying offense prior to possessing commercial driver’s license is eligible for commercial driver’s license once period of revocation and safety and treatment program have been completed; expanding range of offenses eligible for reinstatement after ten years and completion of safety and treatment program; providing that a person who committed certain offenses more than ten years before the initial issuance of a commercial driver’s license by any state shall be deemed to have served the period of disqualification from holding a commercial driver’s license if certain conditions are met; and setting forth conditions to be met.

Be it enacted by the Legislature of West Virginia:
That §17E-1-9 and §17E-1-13 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. COMMERCIAL DRIVER’S LICENSE.

§17E-1-9. Commercial driver’s license qualification standards.

(a) No person may be issued a commercial driver’s license unless that person is a resident of this state and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulations enumerated in 49 C. F. R. Part § 383, Subparts G and H (2004) and has satisfied all other requirements of the Federal Motor Carrier Safety Improvement Act of 1999 in addition to other requirements imposed by state law or federal regulations.

(b) Third-party testing. — The commissioner may authorize a person, including an agency of this or another state, an employer, private individual or institution, department, agency or instrumentality of local government, to administer the skills test specified by this section so long as:

(1) The test is the same which would otherwise be administered by the state; and

(2) The party has entered into an agreement with the state that complies with the requirements of 49 C. F. R., Part §383.75.

(c) Indemnification of driver examiners. — No person who has been officially trained and certified by the state as a driver examiner, who administers a driving test, and no other person, firm or corporation by whom or with which that person is employed or is in any way associated, may be criminally liable for the administration of the tests or civilly liable in damages to the person tested or other persons or property unless for gross negligence or willful or wanton injury.
(d) The commissioner may waive the skills test specified in this section for a commercial driver license applicant who meets the requirements of 49 C. F. R. Part §383.77 and the requirements specified by the commissioner.

(e) A commercial driver’s license or commercial driver’s instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, when the person does not possess a valid or current medical certification status or while the person’s driver’s license is suspended, revoked or canceled in any state. A commercial driver’s license may not be issued by any other state unless the person first surrenders all such licenses to the division: Provided, That a person who became subject to a disqualification from driving a commercial motor vehicle prior to possessing a commercial driver’s license is not disqualified from possessing a commercial driver’s license or commercial driver’s license instruction permit so long as the mandatory revocation period specified in subdivision (3), subsection (a), section thirteen of this article has elapsed, and the individual has completed the Safety and Treatment Program or other appropriate program prescribed by the division as required by subdivision (2) of said subsection.

(f) Commercial driver’s instruction permit may be issued as follows:

(1) To an individual who holds a valid Class E or Class D driver’s license and has passed the vision and written tests required for issuance of a commercial driver’s license.

(2) The commercial instruction permit may not be issued for a period to exceed six months. Only one renewal or reissuance may be granted within a two-year period. The holder of a commercial driver’s instruction permit may drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver’s license valid for the type of vehicle driven, who is twenty-one years of age or older, who is alert and unimpaired and who
occupies a seat beside the individual for the purpose of giving instruction or testing.

(3) Only to a person who is at least eighteen years of age and has held a graduated Class E, Class E or Class D license for at least two years.

(4) The applicant for a commercial driver’s instruction permit shall also be otherwise qualified to hold a commercial driver’s license.


(a) A person may not operate a commercial motor vehicle if his or her privilege to operate a commercial motor vehicle is disqualified under the provisions of the Federal Motor Carrier Safety Improvement Act of 1999, 49 C. F. R. Part §383, Subpart D (2004) or in accordance with the provisions of this section.

(1) For the purposes of determining first and subsequent violations of the offenses listed in this section, each conviction resulting from a separate incident includes convictions for offenses committed in a commercial motor vehicle or a noncommercial motor vehicle.

(2) Any person disqualified from operating a commercial motor vehicle for life under the provisions of this chapter for offenses described in subdivisions (1), (2), (3), (4) and (6), subsection (b) of this section is eligible for reinstatement of privileges to operate a commercial motor vehicle after ten years and after completion of the Safety and Treatment Program or other appropriate program prescribed by the division. Any person whose lifetime disqualification has been amended under the provisions of this subdivision and who is subsequently convicted of a disqualifying offense described in subdivisions (1) through (8), inclusive, subsection (b) of this section is not eligible for reinstatement.
(3) Any person who committed a disqualifying offense contained in paragraph (B) or (E), subdivision (1), subsection (b) of this section prior to obtaining a commercial driver’s license, and who committed the disqualifying offense more than ten years before he or she applied for a commercial driver’s license and who has completed the Safety and Treatment Program or other appropriate program prescribed by the division, shall be considered to have served the period of disqualification and shall be eligible to obtain a commercial driver’s license so long as all other eligibility requirements contained in sections nine and ten of this article are satisfied.

(4) Any disqualification imposed by this section is in addition to any action to suspend, revoke or cancel the driver’s license or driving privileges if suspension, revocation or cancellation is required under another provision of this code.

(5) The provisions of this section apply to any person operating a commercial motor vehicle and to any person holding a commercial driver’s license.

(b) Any person is disqualified from driving a commercial motor vehicle for the following offenses and time periods if convicted of:

(1) Driving a motor vehicle under the influence of alcohol or a controlled substance;

(A) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one year.

(B) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a noncommercial motor vehicle, a commercial driver’s


license holder is disqualified from operating a commercial motor vehicle for a period of one year.

(C) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F, a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction or for refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for life.

(2) Driving a commercial motor vehicle while the person’s alcohol concentration of the person’s blood, breath or urine is four hundredths of one percent or more, by weight;

(A) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F, a driver is disqualified from operating a commercial motor vehicle for three years.
(C) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(3) Refusing to submit to any designated secondary chemical test required by the provisions of this code or the provisions of 49 C. F. R. §383.72 (2004);

(A) For the first conviction or refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction or refusal to submit to any designated secondary chemical test while operating a noncommercial motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for one year.

(C) For the first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial
(4) Leaving the scene of an accident;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a noncommercial motor vehicle, a commercial driver’s license holder is disqualified for one year.

(C) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for life.

(5) Using a motor vehicle in the commission of any felony as defined in section three, article one of this chapter except that the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance falls under the provisions of subdivision (8) of this subsection;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.
(B) For the first conviction while operating a noncommercial motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for one year.

(C) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for life.

(6) Operating a commercial motor vehicle when, as a result of prior violations committed operating a commercial motor vehicle, the driver’s privilege to operate a motor vehicle has been suspended, revoked or canceled or the driver’s privilege to operate a commercial motor vehicle has been disqualified.

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(C) For a second conviction in a separate incident of any combination of offenses in this subsection while operating
a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(7) Causing a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, homicide and negligent homicide as defined in section five, article three, chapter seventeen-b, and section one, article five, chapter seventeen-c of this code;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(C) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(8) Using a motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance, a driver is disqualified from operating a commercial motor vehicle for life and is not eligible for reinstatement.

(c) Any person is disqualified from driving a commercial motor vehicle if convicted of:

(1) Speeding excessively involving any speed of fifteen miles per hour or more above the posted speed limit;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor
vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver’s license holder’s privilege to operate any motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver’s license holder’s privilege to operate any motor vehicle, a commercial driver’s license holder shall be disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(2) Reckless driving as defined in section three, article five, chapter seventeen-c of this code, careless or negligent driving, including, but not limited to, the offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor

   vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days.

   (B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver’s license holder’s privilege to operate any motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

   (C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

   (D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver’s license holder’s privilege to operate any motor vehicle, a commercial driver’s license holder shall be disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

   (2) Reckless driving as defined in section three, article five, chapter seventeen-c of this code, careless or negligent driving, including, but not limited to, the offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property;

   (A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days.
vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver’s license holder’s privilege to operate any motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver’s license holder’s privilege to operate any motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(3) Making improper or erratic traffic lane changes;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-
year period while operating a noncommercial motor
vehicle, if the conviction results in the suspension,
revocation, or cancellation of the commercial driver’s
license holder’s privilege to operate any motor vehicle, a
commercial driver’s license holder is disqualified from
operating a commercial motor vehicle for a period of sixty
days.

(C) For a third or subsequent conviction of any
combination of the offenses in this subsection in a separate
incident in a three-year period while operating a commercial
motor vehicle, a driver is disqualified from operating a
commercial motor vehicle for a period of one hundred
twenty days.

(D) For a third or subsequent conviction of any
combination of offenses in this subsection in a separate
incident within a three-year period while operating a
noncommercial motor vehicle, if the conviction results in
the suspension, revocation or cancellation of the
commercial driver’s license holder’s privilege to operate
any motor vehicle, a commercial driver’s license holder
is disqualified from operating a commercial motor vehicle
for a period of one hundred twenty days.

(4) Following the vehicle ahead too closely;

(A) For a second conviction of any combination of
offenses in this subsection in a separate incident within a
three-year period while operating a commercial motor
vehicle, a driver is disqualified from operating a
commercial motor vehicle for a period of sixty days.

(B) For a second conviction of any combination of
offenses in this section in a separate incident within a three-
year period while operating a noncommercial motor
vehicle, if the conviction results in the suspension,
revocation, or cancellation of the commercial driver’s
license holder’s privilege to operate any motor vehicle, a
commercial driver’s license holder is disqualified from
operating a commercial motor vehicle for a period of sixty days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver’s license holder’s privilege to operate any motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(5) Violating any law relating to traffic control arising in connection with a fatal accident, other than a parking violation;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver’s license holder’s privilege to operate any motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.
(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver’s license holder’s privilege to operate any motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(6) Driving a commercial motor vehicle without obtaining a commercial driver’s license;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(7) Driving a commercial motor vehicle without a commercial driver’s license in the driver’s possession except that any person who provides proof of possession of a commercial driver’s license to the enforcement agency that issued the citation by the court appearance or fine payment deadline is not guilty of this offense;
(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(8) Driving a commercial motor vehicle without the proper class of commercial driver’s license or the proper endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(9) Driving a commercial motor vehicle while engaged in texting and convicted pursuant to section fourteen-a of this article or similar law of this or any other jurisdiction or 49 C. F. R §392.80;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a
three-year period while operating a commercial motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three-year period while operating a commercial motor vehicle, a commercial driver’s license holder is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(d) Any person convicted of operating a commercial motor vehicle in violation of any federal, state or local law or ordinance pertaining to railroad crossing violations described in subdivisions (1) through (6), inclusive, of this subsection is disqualified from operating a commercial motor vehicle for the period of time specified;

(1) Failing to slow down and check that the tracks are clear of an approaching train, if not required to stop in accordance with the provisions of section three, article twelve, chapter seventeen-e of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one hundred twenty days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(2) Failing to stop before reaching the crossing, if the tracks are not clear, if not required to stop in accordance
with the provisions of section one, article twelve, chapter seventeen-c of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one hundred twenty days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(3) Failing to stop before driving onto the crossing, if required to stop in accordance with the provisions of section three, article twelve, chapter seventeen-c of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, the driver is disqualified from operating a commercial motor vehicle for one hundred twenty days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(4) Failing to have sufficient space to drive completely through the crossing without stopping in accordance with the provisions of section three, article twelve, chapter seventeen-c of this code;
(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one hundred twenty days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(5) Failing to obey a traffic control device or the directions of an enforcement official at the crossing in accordance with the provisions of section one, article twelve, chapter seventeen-c of this code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one hundred twenty days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(6) Failing to negotiate a crossing because of insufficient undercarriage clearance in accordance with the provisions of section three, article twelve, chapter seventeen-c of this code.

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days;
(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one hundred twenty days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(e) Any person who is convicted of violating an out-of-service order while operating a commercial motor vehicle is disqualified for the following periods of time:

(1) If convicted of violating a driver or vehicle out-of-service order while transporting nonhazardous materials:

(A) For the first conviction of violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one hundred eighty days.

(B) For a second conviction in a separate incident within a ten-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for two years.

(C) For a third or subsequent conviction in a separate incident within a ten-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(2) If convicted of violating a driver or vehicle out-of-service order while transporting hazardous materials required to be placarded under 49 C. F. R. Part §172, Subpart F (2004) or while operating a vehicle designed to transport sixteen or more passengers including the driver;
(A) For the first conviction of violating an out of service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one hundred eighty days.

(B) For a second conviction in a separate incident within a ten-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(C) For a third or subsequent conviction in a separate incident within a ten-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(f) After disqualifying, suspending, revoking or canceling a commercial driver’s license, the division shall update its records to reflect that action within ten days.

(g) In accordance with the provisions of 49 U. S. C. §313119(a)(19)(2004), and 49 C. F. R. §384.226 (2004), notwithstanding the provisions of section twenty-five, article eleven, chapter sixty-one of this code, no record of conviction, revocation, suspension or disqualification related to any type of motor vehicle traffic control offense, other than a parking violation, of a commercial driver’s license holder or a person operating a commercial motor vehicle may be masked, expunged, deferred or be subject to any diversion program.

(h) Notwithstanding any provision in this code to the contrary, the division may not issue any temporary driving permit, work-only driving permit or hardship license or permit that authorizes a person to operate a commercial motor vehicle when his or her privilege to operate any motor vehicle has been revoked, suspended, disqualified or otherwise canceled for any reason.
(i) In accordance with the provisions of 49 C. F. R. §391.15(b), a driver is disqualified from operating a commercial motor vehicle for the duration of any suspension, revocation or cancellation of his or her driver’s license or privilege to operate a motor vehicle by this state or by any other state or jurisdiction until the driver complies with the terms and conditions for reinstatement set by this state or by another state or jurisdiction.

(j) In accordance with the provisions of 49 C. F. R. §353.52 (2006), the division shall immediately disqualify a driver’s privilege to operate a commercial motor vehicle upon a notice from the assistant administrator of the Federal Motor Carrier Safety Administration that the driver poses an imminent hazard. Any disqualification period imposed under the provisions of this subsection shall be served concurrently with any other period of disqualification if applicable.

(k) In accordance with the provisions of 49 C. F. R. §1572.11(a), the division shall immediately disqualify a driver’s privilege to operate a commercial motor vehicle if the driver fails to surrender his or her driver’s license with a hazardous material endorsement to the division upon proper notice by the division to the driver that the division received notice from the Department of Homeland Security Transportation Security Administration of an initial determination of threat assessment and immediate revocation that the driver does not meet the standards for security threat assessment provided in 49 C. F. R. §1572.5. The disqualification remains in effect until the driver either surrenders the driver’s license to the division or provides the division with an affidavit attesting to the fact that the driver has lost or is otherwise unable to surrender the license.

(l) In accordance with 49 C. F. R. §391.41, a driver is disqualified from operating a commercial motor vehicle if the driver is not physically qualified to operate a commercial motor vehicle or does not possess a valid medical certification status.
(m) In accordance with the provisions of 49 C. F. R. §383.73(g), the division shall disqualify a driver’s privilege to operate a commercial motor vehicle if the division determines that the licensee has falsified any information or certifications required under the provisions of 49 C. F. R. 383 Subpart J or 49 C. F. R. §383.71(a) for sixty days in addition to any other penalty prescribed by this code.

CHAPTER 245

(Com. Sub. for S. B. 222 - By Senators Weld and Trump)

[Passed April 3, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 8, 2017.]

AN ACT to amend and reenact §21A-6-3 of the Code of West Virginia, 1931, as amended, relating to disqualification for unemployment benefits; providing that an individual is disqualified for benefits for any week or portion of a week in which he or she left or lost his or her job as a result of a strike or other bona fide labor dispute; clarifying that a lockout is not a strike; providing that operation of a facility by non-striking employees, contractors or other personnel is not reason to grant benefits; establishing the circumstances when a worker is determined to leave or lose employment by reason of a lockout; providing the circumstances when a worker is determined to be permanently replaced by another employee; providing that contractors or employees who perform the work of a striking worker on a temporary basis are not to be determined to have permanently replaced a striking worker; and describing the circumstances under which employees and contractors are hired to perform striking employees’ work on a temporary basis.

Be it enacted by the Legislature of West Virginia
That §21A-6-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6. APPEALS.

§21A-6-3. Disqualification for benefits.

1 Upon the determination of the facts by the commissioner, an individual is disqualified for benefits:

2 (1) For the week in which he or she left his or her most recent work voluntarily without good cause involving fault on the part of the employer and until the individual returns to covered employment and has been employed in covered employment at least thirty working days.

3 For the purpose of this subdivision, an individual has not left his or her most recent work voluntarily without good cause involving fault on the part of the employer if the individual leaves his or her most recent work with an employer and if he or she in fact, within a fourteen-day calendar period, does return to employment with the last preceding employer with whom he or she was previously employed within the past year prior to his or her return to work, and which last preceding employer, after having previously employed the individual for thirty working days or more, laid off the individual because of lack of work, which layoff occasioned the payment of benefits under this chapter or could have occasioned the payment of benefits under this chapter had the individual applied for benefits. It is the intent of this paragraph to cause no disqualification for benefits for an individual who complies with the foregoing set of requirements and conditions. Further, for the purpose of this subdivision, an individual has not left his or her most recent work voluntarily without good cause involving fault on the part of the employer, if the individual was compelled to leave his or her work for his or her own health-related reasons and notifies the employer prior to leaving the job or within two business days after leaving the job or as soon as practicable and presents written
certification from a licensed physician within thirty days of leaving the job that his or her work aggravated, worsened or will worsen the individual’s health problem.

(2) For the week in which he or she was discharged from his or her most recent work for misconduct and the six weeks immediately following that week; or for the week in which he or she was discharged from his or her last thirty-day employing unit for misconduct and the six weeks immediately following that week. The disqualification carries a reduction in the maximum benefit amount equal to six times the individual’s weekly benefit. However, if the claimant returns to work in covered employment for thirty days during his or her benefit year, whether or not the days are consecutive, the maximum benefit amount is increased by the amount of the decrease imposed under the disqualification; except that:

If he or she were discharged from his or her most recent work for one of the following reasons, or if he or she were discharged from his or her last thirty days employing unit for one of the following reasons: Gross misconduct consisting of willful destruction of his or her employer’s property; assault upon the person of his or her employer or any employee of his or her employer; if the assault is committed at the individual’s place of employment or in the course of employment; reporting to work in an intoxicated condition, or being intoxicated while at work; reporting to work under the influence of any controlled substance, as defined in chapter sixty-a of this code without a valid prescription, or being under the influence of any controlled substance, as defined in said chapter without a valid prescription, while at work; adulterating or otherwise manipulating a sample or specimen in order to thwart a drug or alcohol test lawfully required of an employee; refusal to submit to random testing for alcohol or illegal controlled substances for employees in safety sensitive positions as defined in section two, article one-d, chapter twenty-one of this code; arson, theft, larceny, fraud or embezzlement in
connection with his or her work; or any other gross misconduct, he or she is disqualified for benefits until he or she has thereafter worked for at least thirty days in covered employment: Provided, That for the purpose of this subdivision, the words “any other gross misconduct” includes, but is not limited to, any act or acts of misconduct where the individual has received prior written warning that termination of employment may result from the act or acts.

(3) For the week in which he or she failed without good cause to apply for available, suitable work, accept suitable work when offered, or return to his or her customary self-employment when directed to do so by the commissioner, and for the four weeks which immediately follow for such additional period as any offer of suitable work shall continue open for his or her acceptance. The disqualification carries a reduction in the maximum benefit amount equal to four times the individual’s weekly benefit amount.

(4) For any week or portion thereof in which he or she did not work as a result of:

(a) A strike or other bona fide labor dispute which caused him or her to leave or lose his or her employment;

(b) A lockout is not a strike or a bona fide labor dispute and no individual may be denied benefits by reason of a lockout. However, the operation of a facility by non-striking employees of the company, contractors or other personnel is not a reason to grant employees of the company on strike unemployment compensation benefit payments. If the operation of a facility is with workers hired to permanently replace the employees on strike, the employees would be eligible for benefits.

(c) For the purpose of this subsection, an individual shall be determined to leave or lose his or her employment by reason of a lockout where the individual employee has established that: (i) The individual presented himself or herself physically for work at the workplace on the first day
of such lockout or on the first day he or she is able to present himself at the workplace or herself; and (ii) the employer denied the individual the opportunity to perform work.

(d) For purposes of this subsection, an individual is determined to be permanently replaced where the individual employee establishes that: (i) He or she is currently employed by an employer who is the subject of a strike or other bona fide labor dispute; and (ii) the position of the employee has been occupied by another employee who has been notified they are permanently replacing the employee who previously occupied the position. Employees or contractors who are hired to perform striking employees’ work on a temporary basis, such as the duration of a strike or other bona fide labor dispute, or a shorter period of time, may not be determined to have permanently replaced a striking employee.

(5) For a week with respect to which he or she is receiving or has received:

(a) Wages in lieu of notice;

(b) Compensation for temporary total disability under the workers’ compensation law of any state or under a similar law of the United States; or

(c) Unemployment compensation benefits under the laws of the United States or any other state.

(6) For the week in which an individual has voluntarily quit employment to marry or to perform any marital, parental or family duty, or to attend to his or her personal business or affairs and until the individual returns to covered employment and has been employed in covered employment at least thirty working days: Provided, That an individual who has voluntarily quit employment to accompany a spouse serving in active military service who has been reassigned from one military assignment to another is not disqualified for benefits pursuant to this
Provided however, That the account of the employer of an individual who leaves the employment to accompany a spouse reassigned from one military assignment to another may not be charged.

(7) Benefits may not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if the individual performed the services in the first of the seasons (or similar periods) and there is a reasonable assurance that the individual will perform the services in the later of the seasons (or similar periods).

(8) (a) Benefits may not be paid on the basis of services performed by an alien unless the alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, was lawfully present for purposes of performing the services or was permanently residing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act): Provided, That any modifications to the provisions of Section 3304(a)(14) of the federal Unemployment Tax Act as provided by Public Law 94-566 which specify other conditions or other effective date than stated in this subdivision for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under state law as a condition for full tax credit against the tax imposed by the federal Unemployment Tax Act are applicable under the provisions of this section.

(b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.
In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of his or her alien status may be made except upon a preponderance of the evidence.

For each week in which an individual is unemployed because, having voluntarily left employment to attend a school, college, university or other educational institution, he or she is attending that school, college, university or other educational institution, or is awaiting entrance thereto or is awaiting the starting of a new term or session thereof, and until the individual returns to covered employment.

For each week in which he or she is unemployed because of his or her request, or that of his or her duly authorized agent, for a vacation period at a specified time that would leave the employer no other alternative but to suspend operations.

In the case of an individual who accepts an early retirement incentive package, unless he or she: (i) Establishes a well-grounded fear of imminent layoff supported by definitive objective facts involving fault on the part of the employer; and (ii) establishes that he or she would suffer a substantial loss by not accepting the early retirement incentive package.

For each week with respect to which he or she is receiving or has received benefits under Title II of the Social Security Act or similar payments under any Act of Congress, or remuneration in the form of an annuity, pension or other retirement pay from a base period employer or chargeable employer or from any trust or fund contributed to by a base period employer or chargeable employer or any combination of the above, the weekly benefit amount payable to the individual for that week shall be reduced (but not below zero) by the prorated weekly amount of those benefits, payments or remuneration: Provided, That if the amount of benefits is not a multiple of $1, it shall be computed to the next lowest multiple of $1: Provided, however, That there is no disqualification if in the
individual’s base period there are no wages which were paid
by the base period employer or chargeable employer paying
the remuneration, or by a fund into which the employer has
paid during the base period: Provided further, That
notwithstanding any other provision of this subdivision to
the contrary, the weekly benefit amount payable to the
individual for that week may not be reduced by any
retirement benefits he or she is receiving or has received
under Title II of the Social Security Act or similar payments
under any Act of Congress. A claimant may be required to
certify as to whether or not he or she is receiving or has been
receiving remuneration in the form of an annuity, pension
or other retirement pay from a base period employer or
chargeable employer or from a trust fund contributed to by
a base period employer or chargeable employer.

(13) For each week in which and for fifty-two weeks
thereafter, beginning with the date of the decision, if the
commissioner finds the individual who within twenty-four
calendar months immediately preceding the decision, has
made a false statement or representation knowing it to be false
or knowingly fails to disclose a material fact, to obtain or
increase any benefit or payment under this article: Provided,
That disqualification under this subdivision does not preclude
prosecution under section seven, article ten of this chapter.

CHAPTER 246

(S. B. 365 - By Senators Carmichael (Mr. President)
and Prezioso)
[By Request of the Executive]

[Passed April 4, 2017; in effect ninety days from passage.]
[Approved by the Governor on April 18, 2017.]

AN ACT to amend and reenact §21A-8-16 of the Code of West
Virginia, 1931, as amended, relating to maintaining the
solvency of the Unemployment Compensation Fund; and
extending the time period for borrowing funds from the Revenue Shortfall Reserve Fund for the Unemployment Compensation Fund to September 1, 2018.

Be it enacted by the Legislature of West Virginia:

That §21A-8-16 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8. UNEMPLOYMENT COMPENSATION FUND.

§21A-8-16. Loans to Unemployment Compensation Fund from Revenue Shortfall Reserve Fund.

(a) Notwithstanding any provision of this code to the contrary and subject to the provisions of this section, the Governor may, by executive order, after first notifying the presiding officers of both houses of the Legislature in writing, borrow funds from the Revenue Shortfall Reserve Fund created in section twenty, article two, chapter eleven-b of this code for deposit into the Unemployment Compensation Fund, created in section one of this article, to be expended in accordance with this code. The amount of funds borrowed and outstanding under this section may not exceed $50 million at any one time, or the amount the Governor determines is necessary to adequately sustain the balance in the Unemployment Compensation Fund at a minimum of $50 million, whichever is less.

(b) Notwithstanding the provisions of subsection (a) of this section, the Governor may not borrow funds from the Revenue Shortfall Reserve Fund unless the Executive Director of Workforce West Virginia has projected that the balance in the state’s Unemployment Compensation Fund will be less than $50 million at any time during the next thirty days.

(c) Any funds borrowed pursuant to this section shall be used to pay benefits only.
(d) Any funds borrowed pursuant to this subsection shall be repaid from funds on deposit in the Unemployment Trust Fund in excess of $50 million or from other funds legally available for such purpose, without interest, and redeposited to the credit of the Revenue Shortfall Reserve Fund within one hundred eighty days of their withdrawal.

(e) No amounts may be borrowed pursuant to the provisions of this section after September 1, 2018.
Proposing an amendment to the Constitution of the State of West Virginia, relating to authorizing the Legislature to issue and sell state bonds not exceeding the aggregate amount of $1.6 billion to be used for improvement and construction of state roads and bridges; numbering and designating such proposed amendment; authorizing a special election on the ratification or rejection of the amendment to take place in 2017, to be set by the Governor; and providing a summarized statement of the purpose of such proposed amendment.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at a special election to be held at a date set
by the Governor in 2017 and proclaimed in accordance with section three, article eleven, chapter three of the Code of West Virginia, which proposed amendment is to read as follows:

Roads to Prosperity Amendment of 2017.

(a) The Legislature shall have power to authorize the issuing and selling of state bonds not exceeding in the aggregate $1.6 billion. The proceeds of said bonds are hereby authorized to be issued and sold over a four-year period in the following amounts:

(1) July 1, 2017, an amount not to exceed $800 million;
(2) July 1, 2018, an amount not to exceed $400 million;
(3) July 1, 2019, an amount not to exceed $200 million;
and
(4) July 1, 2020, an amount not to exceed $200 million.

Any bonds not issued under the provisions of subdivisions (1) through (3), inclusive, of this subsection may be carried forward and issued in any subsequent year before July 1, 2021.

(b) The proceeds of the bonds shall be used and appropriated for the following purposes:

(1) Matching available federal funds for highway and bridge construction in this state; and
(2) General highway and secondary road and bridge construction or improvements in each of the fifty-five counties.

(c) When a bond issue as aforesaid is authorized, the Legislature shall at the same time provide for the collection of an annual state tax which shall be in a sufficient amount to pay the interest on such bonds and the principal thereof as such may accrue within and not exceeding twenty-five years. Such taxes shall be levied in any year only to the
extent that the moneys in the state road fund irrevocably set
aside and appropriated for and applied to the payment of the
interest on and the principal of said bonds becoming due and
payable in such year are insufficient therefor. Any interest
that accrues on the issued bonds prior to payment shall only
be used for the purposes of the bonds.

Resolved further, That in accordance with the
provisions of article eleven, chapter three of the Code of
West Virginia, 1931, as amended, such proposed
amendment is hereby numbered “Amendment No. 1” and
designated as the “Roads to Prosperity Amendment of
2017” and the purpose of the proposed amendment is
summarized as follows: “To provide for the improvement
and construction of safe roads in the state by the issuance of
bonds not to exceed $1.6 billion in the aggregate to be paid
for from the State Road Fund and the collection of annual
state taxes as provided by the Legislature by general law.”
AN ACT making appropriations of public money out of the Treasury in accordance with section fifty-one, article VI of the Constitution.

Be it enacted by the Legislature of West Virginia:

Title

I. General Provisions.
II. Appropriations.
III. Administration.

TITLE I — GENERAL PROVISIONS.
§1. General policy.
§2. Definitions.
§3. Classification of appropriations.
§5. Maximum expenditures.

TITLE I — GENERAL PROVISIONS.

Section 1. General policy. – The purpose of this bill is to appropriate money necessary for the economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year 2018.
Sec. 2. Definitions. — For the purpose of this bill:

“Governor” shall mean the Governor of the State of West Virginia.

“Code” shall mean the Code of West Virginia, one thousand nine hundred thirty-one, as amended.

“Spending unit” shall mean the department, bureau, division, office, board, commission, agency or institution to which an appropriation is made.

The “fiscal year 2018” shall mean the period from July 1, 2017, through June 30, 2018.

“General revenue fund” shall mean the general operating fund of the state and includes all moneys received or collected by the state except as provided in W.Va. Code §12-2-2 or as otherwise provided.

“Special revenue funds” shall mean specific revenue sources which by legislative enactments are not required to be accounted for as general revenue, including federal funds.

“From collections” shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collections. If the amount collected exceeds the amount designated “from collections,” the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by Article 2, Chapter 11B of the Code.

Sec. 3. Classification of appropriations. — An appropriation for:

“Personal services” shall mean salaries, wages and other compensation paid to full-time, part-time and temporary
employees of the spending unit but shall not include fees or
contractual payments paid to consultants or to independent
contractors engaged by the spending unit. “Personal
services” shall include “annual increment” for “eligible
employees” and shall be disbursed only in accordance with
Article 5, Chapter 5 of the Code.

Unless otherwise specified, appropriations for “personal
services” shall include salaries of heads of spending units.

“Employee benefits” shall mean social security
matching, workers’ compensation, unemployment
compensation, pension and retirement contributions, public
employees insurance matching, personnel fees or any other
benefit normally paid by the employer as a direct cost of
employment. Should the appropriation be insufficient to
cover such costs, the remainder of such cost shall be paid by
each spending unit from its “unclassified” appropriation, or
its “current expenses” appropriation or other appropriate
appropriation. Each spending unit is hereby authorized and
required to make such payments in accordance with the
provisions of Article 2, Chapter 11B of the Code.

Each spending unit shall be responsible for all
contributions, payments or other costs related to coverage
and claims of its employees for unemployment compensation
and workers compensation. Such expenditures shall be
considered an employee benefit.

“BRIM Premiums” shall mean the amount charged as
consideration for insurance protection and includes the
present value of projected losses and administrative
expenses. Premiums are assessed for coverages, as defined
in the applicable policies, for claims arising from, inter alia,
general liability, wrongful acts, property, professional
liability and automobile exposures.

Should the appropriation for “BRIM Premium” be
insufficient to cover such cost, the remainder of such costs
shall be paid by each spending unit from its “unclassified”
appropriation, its “current expenses” appropriation or any other appropriate appropriation to the Board of Risk and Insurance Management. Each spending unit is hereby authorized and required to make such payments. If there is no appropriation for “BRIM Premium” such costs shall be paid by each spending unit from its “current expenses” appropriation, “unclassified” appropriation or other appropriate appropriation.

West Virginia Council for Community and Technical College Education and Higher Education Policy Commission entities operating with special revenue funds and/or federal funds shall pay their proportionate share of the Board of Risk and Insurance Management total insurance premium cost for their respective institutions.

“Current expenses” shall mean operating costs other than personal services and shall not include equipment, repairs and alterations, buildings or lands. Each spending unit shall be responsible for and charged monthly for all postage meter service and shall reimburse the appropriate revolving fund monthly for all such amounts. Such expenditures shall be considered a current expense.

“Equipment” shall mean equipment items which have an appreciable and calculable period of usefulness in excess of one year.

“Repairs and alterations” shall mean routine maintenance and repairs to structures and minor improvements to property which do not increase the capital assets.

“Buildings” shall include new construction and major alteration of existing structures and the improvement of lands and shall include shelter, support, storage, protection or the improvement of a natural condition.

“Lands” shall mean the purchase of real property or interest in real property.
“Capital outlay” shall mean and include buildings, lands or buildings and lands, with such category or item of appropriation to remain in effect as provided by W.Va. Code §12-3-12.

From appropriations made to the spending units of state government, upon approval of the Governor there may be transferred to a special account an amount sufficient to match federal funds under any federal act.

Appropriations classified in any of the above categories shall be expended only for the purposes as defined above and only for the spending units herein designated: Provided, That the secretary of each department shall have the authority to transfer within the department those general revenue funds appropriated to the various agencies of the department: Provided, however, That no more than five percent of the general revenue funds appropriated to any one agency or board may be transferred to other agencies or boards within the department: and no funds may be transferred to a “personal services and employee benefits” appropriation unless the source funds are also wholly from a “personal services and employee benefits” line, or unless the source funds are from another appropriation that has exclusively funded employment expenses for at least twelve consecutive months prior to the time of transfer and the position(s) supported by the transferred funds are also permanently transferred to the receiving agency or board within the department: Provided further, That the secretary of each department and the director, commissioner, executive secretary, superintendent, chairman or any other agency head not governed by a departmental secretary as established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to “personal services and employee benefits,” “current expenses,” “repairs and alterations,” “equipment,” “other assets,” “land,” and “buildings” to other appropriations within the same account and no funds from other appropriations shall be transferred to the “personal services and employee benefits” or the “unclassified” appropriation: And provided further, That no authority exists hereunder to transfer funds
into appropriations to which no funds are legislatively appropriated: *And provided further*, That if the Legislature by subsequent enactment consolidates agencies, boards or functions, the secretary or other appropriate agency head may transfer the funds formerly appropriated to such agency, board or function in order to implement such consolidation. No funds may be transferred from a Special Revenue Account, dedicated account, capital expenditure account or any other account or fund specifically exempted by the Legislature from transfer, except that the use of the appropriations from the State Road Fund for the office of the Secretary of the Department of Transportation is not a use other than the purpose for which such funds were dedicated and is permitted.

Appropriations otherwise classified shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit the freedom to spend an appropriation for more than one of the above classifications.

Sec. 4. Method of expenditure. — Money appropriated by this bill, unless otherwise specifically directed, shall be appropriated and expended according to the provisions of Article 3, Chapter 12 of the Code or according to any law detailing a procedure specifically limiting that article.

Sec. 5. Maximum expenditures. — No authority or requirement of law shall be interpreted as requiring or permitting an expenditure in excess of the appropriations set out in this bill.

TITLE II – APPROPRIATIONS.

§1. Appropriations from general revenue.

ADMINISTRATION, DEPARTMENT OF
Administration, Department of – Office of the Secretary – Fund No. 0186........................................................................ 2170
Committee for the Purchase of Commodities and Services from the Handicapped – Fund No. 0233 ................................................................. 2176
<table>
<thead>
<tr>
<th>Department / Agency</th>
<th>Fund Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consolidated Public Retirement Board – Fund</td>
<td>No. 0195</td>
</tr>
<tr>
<td>Ethics Commission – Fund</td>
<td>No. 0223</td>
</tr>
<tr>
<td>Finance, Division of – Fund</td>
<td>No. 0203</td>
</tr>
<tr>
<td>General Services, Division of – Fund</td>
<td>No. 0230</td>
</tr>
<tr>
<td>Prosecuting Attorneys’ Institute, West Virginia –</td>
<td>Fund No. 0557</td>
</tr>
<tr>
<td>Public Defender Services – Fund</td>
<td>No. 0226</td>
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<tr>
<td>Public Employees Grievance Board – Fund</td>
<td>No. 0220</td>
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<tr>
<td>Public Employees Insurance Agency – Fund</td>
<td>No. 0200</td>
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<tr>
<td>Purchasing, Division of – Fund</td>
<td>No. 0210</td>
</tr>
<tr>
<td>Real Estate Division – Fund</td>
<td>No. 0610</td>
</tr>
<tr>
<td>Travel Management – Fund</td>
<td>No. 0615</td>
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<tr>
<td>Uniform State Laws, Commission on – Fund</td>
<td>No. 0214</td>
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<tr>
<td>Coal Mine Health and Safety, Board of –</td>
<td>Fund No. 0280</td>
</tr>
<tr>
<td>Commerce, Department of – Office of the Secretary –</td>
<td>Fund No. 0606</td>
</tr>
<tr>
<td>Development Office, West Virginia – Fund</td>
<td>No. 0256</td>
</tr>
<tr>
<td>Energy, Office of – Fund</td>
<td>No. 0612</td>
</tr>
<tr>
<td>Forestry, Division of – Fund</td>
<td>No. 0250</td>
</tr>
<tr>
<td>Geological and Economic Survey – Fund</td>
<td>No. 0253</td>
</tr>
<tr>
<td>Miners’ Health, Safety and Training, Division of –</td>
<td>Fund No. 0277</td>
</tr>
<tr>
<td>Natural Resources, Division of – Fund</td>
<td>No. 0265</td>
</tr>
<tr>
<td>WorkForce WV – Fund</td>
<td>No. 0572</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Department / Agency</th>
<th>Fund Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>EDUCATION, DEPARTMENT OF</td>
<td></td>
</tr>
<tr>
<td>State Board of Education – Vocational Division – Fund</td>
<td>No. 0390</td>
</tr>
<tr>
<td>State Department of Education – Aid for Exceptional Children – Fund</td>
<td>No. 0314</td>
</tr>
<tr>
<td>State Department of Education – Fund No. 0313</td>
<td></td>
</tr>
<tr>
<td>State Department of Education – School Lunch Program –</td>
<td>Fund No. 0303</td>
</tr>
<tr>
<td>State Department of Education – State Aid to Schools –</td>
<td>Fund No. 0317</td>
</tr>
<tr>
<td>West Virginia Schools for the Deaf and the Blind – Fund</td>
<td>No. 0320</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Department / Agency</th>
<th>Fund Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>EDUCATION AND THE ARTS, DEPARTMENT OF</td>
<td></td>
</tr>
<tr>
<td>Culture and History, Division of – Fund</td>
<td>No. 0293</td>
</tr>
</tbody>
</table>
Educational Broadcasting Authority – Fund No. 0300 ................................................................. 2190
Education and the Arts, Department of – Office of the Secretary – Fund No. 0294 .................................. 2188
Library Commission – Fund No. 0296 .......................................................................................... 2190
State Board of Rehabilitation – Division of Rehabilitation Services – Fund No. 0310 .............. 2191

ENVIRONMENTAL PROTECTION, DEPARTMENT OF
Air Quality Board – Fund No. 0550 ......................................................................................... 2193
Environmental Protection, Division of – Fund No. 0273 .................................................................. 2192
Environmental Quality Board – Fund No. 0270 ........................................................................ 2192

EXECUTIVE
Agriculture, Department of – Fund No. 0131 ........................................................................ 2165
Agriculture, Department of – Agricultural Awards – Fund No. 0136 .............................................. 2167
Agriculture, Department of – Meat Inspection – Fund No. 0135 ................................................. 2167
Agriculture, Department of – West Virginia Agricultural Land Protection Authority – Fund No. 0607 .................................................................................................................. 2168
Attorney General – Fund No. 0150 ................................................................................................. 2168
Auditor’s Office – General Administration – Fund No. 0116 .......................................................... 2164
Governor’s Office – Fund No. 0101 ............................................................................................... 2161
Governor’s Office – Civil Contingent Fund – Fund No. 0105 .......................................................... 2163
Governor’s Office – Custodial Fund – Fund No. 0102 .................................................................. 2162
Secretary of State – Fund No. 0155 ............................................................................................... 2169
State Election Commission – Fund No. 0160 ................................................................................. 2170
Treasurer’s Office – Fund No. 0126 ............................................................................................... 2164
West Virginia Conservation Agency – Fund No. 0132 ................................................................. 2166

HEALTH AND HUMAN RESOURCES, DEPARTMENT OF
Consolidated Medical Service Fund – Fund No. 0525 .................................................................. 2196
Health and Human Resources, Department of – Office of the Secretary – Fund No. 0400 .............. 2193
Health, Division of – Central Office – Fund No. 0407 .................................................................. 2194
Health, Division of – West Virginia Drinking Water Treatment – Fund No. 0561 ......................... 2198
Human Services, Division of – Fund No. 0403 ............................................................................. 2199
Human Rights Commission – Fund No. 0416 ............................................................................. 2199

HIGHER EDUCATION POLICY COMMISSION
Bluefield State College – Fund No. 0354 .................................................................................... 2227
Concord University – Fund No. 0357 ........................................................ 2227
Fairmont State University – Fund No. 0360 .............................................. 2227
Glenville State College – Fund No. 0363 .................................................. 2227
Higher Education Policy Commission –
   Administration – Control Account – Fund No. 0589.......................... 2221
Higher Education Policy Commission –
   Administration – West Virginia Network for
      Educational Telecomputing (WVNET) – Fund No. 0551 ............... 2222
Marshall University – General Administration Fund – Fund No. 0348 ... 2225
Marshall University – School of Medicine – Fund No. 0347 ................... 2224
Shepherd University – Fund No. 0366 ................................................... 2227
West Liberty University – Fund No. 0370 .............................................. 2228
West Virginia School of Osteopathic Medicine – Fund No. 0336 ......... 2226
West Virginia State University – Fund No. 0373 ................................... 2228
West Virginia University – General Administrative Fund –
   Fund No. 0344 ................................................................................ 2223
West Virginia University – School of Medicine –
   Medical School Fund – Fund No. 0343 .............................................. 2223

JUDICIAL
   Supreme Court – General Judicial – Fund
      No. 0180 ...................................................................................... 2160

LEGISLATIVE
   House of Delegates – Fund No. 0170 ................................................... 2158
   Joint Expenses – Fund No. 0175 ......................................................... 2160
   Senate – Fund No. 0165 ..................................................................... 2156

MILITARY AFFAIRS AND PUBLIC SAFETY, DEPARTMENT OF
   Adjutant General – Military Fund –
      Fund No. 0605 .............................................................................. 2204
   Adjutant General – State Militia – Fund
      No. 0433 ..................................................................................... 2203
   Corrections, Division of – Central Office –
      Fund No. 0446 ............................................................................ 2206
   Corrections, Division of – Correctional Units –
      Fund No. 0450 ............................................................................ 2206
   Fire Commission – Fund No. 0436 .................................................... 2209
   Homeland Security and Emergency Management,
      Division of – Fund No. 0443 .......................................................... 2205
   Justice and Community Services, Division of –
      Fund No. 0546 ............................................................................ 2209
   Juvenile Services, Division of – Fund No. 0570 .................................. 2210
   Military Affairs and Public Safety, Department of –
      Office of the Secretary – Fund No. 0430 ....................................... 2202
   Parole Board, West Virginia – Fund No. 0440 .................................... 2205
   Protective Services, Division of – Fund No. 0585 ................................ 2212
   State Police, West Virginia – Fund No. 0453 ..................................... 2208
§2. Appropriations from state road fund.

TRANSPORTATION, DEPARTMENT OF
  Administrative Hearings, Office of – Fund No. 9027.......................... 2230
  Highways, Division of – Fund No. 9017 ........................................... 2229
  Motor Vehicles, Division of – Fund No. 9007 .................................. 2228
§3. Appropriations from other funds.

ADMINISTRATION, DEPARTMENT OF
Administration, Department of – Office of the Secretary – Employee Pension and Health Care Benefit Fund – Fund No. 2044 .......................................................... 2241
Administration, Department of – Office of the Secretary – Tobacco Settlement Fund – Fund No. 2041 .......................................................... 2241
Information Services and Communications, Division of – Fund No. 2220 ............................................................. 2241
Personnel, Division of – Fund No. 2440 ................................................................................... 2241
Prosecuting Attorneys’ Institute, West Virginia – Fund No. 2521 ............................................................. 2244
Purchasing, Division of – Improvement Fund – Fund No. 2264 ............................................................. 2242
Purchasing, Division of – Vendor Fee Fund – Fund No. 2263 ............................................................. 2242
Technology, Office of – Chief Technology Officer Administration Fund – Fund No. 2531 ............................................................. 2244
Travel Management – Aviation Fund – Fund No. 2302 ........................................................................ 2243
Travel Management Fleet Management Office Fund – Fund No. 2301 ............................................................. 2243

COMMERCE, DEPARTMENT OF
Commerce, Department of – Office of the Secretary – Broadband Enhancement Fund, Fund 3013 ............................................................. 2253
Development Office, West Virginia – Department of Commerce – Marketing and Communications Operating Fund – Fund 3002 ......... 2246
Development Office, West Virginia – Department of Commerce – Office of Coalfield Community Development – Fund 3162.............. 2247
Energy, Division of – Energy Assistance – Fund No. 3010 ........................................................................ 2254
Forestry, Division of – Fund No. 3081 ........................................................................ 2245
Forestry, Division of – Severance Tax Operations Fund – Fund No. 3048 ............................................................. 2246
Forestry, Division of – Timbering Operations Enforcement Fund – Fund No. 3082 ............................................................. 2245
Geological and Economic Survey – Geological and Analytical Services Fund – Fund No. 3100............................................................. 2246
Labor, Division of – Amusement Rides and Amusement Attraction Safety Fund – Fund No. 3192............................................................. 2249
Labor, Division of – Bedding and Upholstery Fund – Fund No. 3198 ............................................................. 2250
Labor, Division of – Contractor Licensing Board Fund – Fund No. 3187 ............................................................. 2247
Labor, Division of – Crane Operator Certification Fund – Fund No. 3191 ............................................................. 2249
Labor, Division of – Elevator Safety Fund – Fund No. 3188 ............................................................. 2248
Labor, Division of – HVAC Fund –
  Fund No. 3186 ................................................................. 2247
Labor, Division of – Psychophysiological Examiners
  Fund– Fund No. 3199 ........................................................... 2251
Labor, Division of – State Manufactured Housing
  Administration Fund – Fund No. 3195 ................................. 2249
Labor, Division of – Steamboiler Fund
  – Fund No. 3189 .............................................................. 2248
Labor, Division of – Weights and Measures Fund –
  Fund No. 3196 ................................................................. 2250
Miners’ Health, Safety and Training, Division of – Special
  Miners’ Health, Safety and Training Fund – Fund No. 3355 .... 2253
Natural Resources, Division of – License Fund –
  Wildlife Resources – Fund No. 3200 .................................... 2251
Natural Resources, Division of – Natural Resources Game, Fish
  and Aquatic Life Fund – Fund No. 3202 ............................. 2251
Natural Resources, Division of – Nongame Fund –
  Fund No. 3203 ................................................................. 2252
Natural Resources, Division of – Planning and
  Development Division – Fund No. 3205 ............................. 2252
Natural Resources, Division of – Whitewater
  Advertising and Promotion Fund – Fund
  No. 3256 ........................................................................... 2253
Natural Resources, Division of – Whitewater
  Study and Improvement Fund – Fund No. 3253 ................... 2252

EDUCATION, DEPARTMENT OF
State Board of Education – School Construction
  Fund – Fund No. 3951 ........................................................... 2254
State Board of Education – Strategic Staff
  Development – Fund No. 3937 ............................................ 2254
State Department of Education – School Building
  Authority – Fund No. 3959 ................................................... 2255

EDUCATION AND THE ARTS, DEPARTMENT OF
Culture and History, Division of – Public
  Records and Preservation Revenue Account –
  Fund No. 3542 .................................................................... 2255
Office of the Secretary – Lottery Education Fund
  Interest Earnings – Control Account – Fund No. 3508 .......... 2255
State Board of Rehabilitation – Division of
  Rehabilitation Services – West Virginia
  Rehabilitation Center Special Account –
  Fund No. 8664 ................................................................... 2256

ENVIRONMENTAL PROTECTION, DEPARTMENT OF
Environmental Protection, Division of –
  Air Pollution Control Fund – Fund No. 3336 ....................... 2261
Environmental Protection, Division of –
  Air Pollution Education and Environment
  Fund – Fund No. 3024 ......................................................... 2257
Ch. 1] APPROPRIATIONS 2145

Environmental Protection, Division of –
  Environmental Laboratory Certification
  Fund – Fund No. 3340................................................................. 2261

Environmental Protection, Division of –
  Hazardous Waste Emergency
  Response Fund – Fund No. 3331............................................... 2259

Environmental Protection, Division of –
  Hazardous Waste Management Fund – Fund
  No. 3023 ..................................................................................... 2257

Environmental Protection, Division of –
  Litter Control Fund – Fund No. 3486........................................... 2262

Environmental Protection, Division of – Mining
  and Reclamation Operations Fund – Fund
  No. 3324 ..................................................................................... 2258

Environmental Protection, Division of – Mountaintop
  Removal Fund – Fund No. 3490.................................................. 2262

Environmental Protection, Division of –
  Oil and Gas Operating Permit
  and Processing Fund – Fund No. 3323 ........................................ 2258

Environmental Protection, Division of – Oil
  and Gas Reclamation Fund – Fund No. 3322 ................................ 2258

Environmental Protection, Division of –
  Recycling Assistance Fund – Fund No. 3487 .............................. 2262

Environmental Protection, Division of – Solid
  Waste Enforcement Fund – Fund No. 3333 .................................. 2260

Environmental Protection, Division of – Solid
  Waste Reclamation and Environmental
  Response Fund – Fund No. 3332................................................ 2260

Environmental Protection, Division of – Special
  Reclamation Fund – Fund No. 3321............................................. 2257

Environmental Protection, Division of – Stream
  Restoration Fund – Fund No. 3349............................................. 2261

Environmental Protection, Division of –
  Underground Storage Tanks Administrative
  Fund – Fund No. 3325.................................................................. 2259

Oil and Gas Conservation Commission –
  Special Oil and Gas Conservation Fund –
  Fund No. 3371........................................................................ 2263

Solid Waste Management Board – Fund No. 3288 ..................... 2256

EXECUTIVE

Agriculture, Department of – Agricultural Fees
  Fund – Fund No. 1401................................................................. 2236

Agriculture, Department of – Donated Food Fund –
  Fund No. 1446........................................................................ 2237

Agriculture, Department of – Farm Operating
  Fund – Fund No. 1412................................................................. 2237

Agriculture, Department of – Integrated Predation
  Management Fund – Fund No. 1465.......................................... 2238

Agriculture, Department of – General John McCausland
  Memorial Farm – Fund No. 1409.............................................. 2236
Agriculture, Department of – Spay Neuter Assistance
  Fund – Fund No. 1481 ................................................................. 2238
Agriculture, Department of – State FFA-FHA Camp and
  Conference Center – Fund 1484 .................................................... 2238
Agriculture, Department of – Veterans and
  Warriors to Agriculture Fund – Fund No. 1483 ............................ 2238
Agriculture, Department of – West Virginia Rural
  Rehabilitation Program – Fund No. 1408 .................................... 2236
Attorney General – Anti-Trust Enforcement –
  Fund No. 1507 ............................................................................. 2239
Attorney General – Preneed Funeral Guarantee Fund –
  Fund No. 1514 ............................................................................. 2240
Attorney General – Preneed Burial Contract Regulation Fund –
  Fund No. 1513 ............................................................................. 2239
Auditor’s Office – Land Operating Fund –
  Fund No. 1206 ............................................................................. 2232
Auditor’s Office – Local Government Purchasing
  Card Expenditure Fund – Fund No. 1224 ..................................... 2233
Auditor’s Office – Chief Inspector’s Fund – Fund No. 1235 .............. 2235
Auditor’s Office – Purchasing Card Administration
  Fund – Fund No. 1234 ................................................................. 2234
Auditor’s Office – Securities Regulation Fund –
  Fund No. 1225 ............................................................................. 2233
Auditor’s Office – Technology Support and Acquisition –
  Fund No. 1233 ............................................................................. 2234
Auditor’s Office – Volunteer Fire Department Workers’
  Compensation Premium Subsidy Fund – Fund No. 1239 .............. 2235
Governor’s Office – Minority Affairs Fund – Fund No. 1058 ............ 2232
Secretary of State – General Administrative Fees
  Account – Fund No. 1617 ............................................................ 2240
Secretary of State – Service Fees and Collection
  Account – Fund No. 1612 ............................................................. 2240
Treasurer’s Office – College Prepaid Tuition
  and Savings Program – Administrative Account –
  Fund No. 1301 ............................................................................. 2235

HEALTH AND HUMAN RESOURCES, DEPARTMENT OF
Health Care Authority, Certificate of Need Program Fund –
  Fund No. 5377 ............................................................................. 2267
Health Care Authority, West Virginia – Health Care Cost
  Review Fund – Fund No. 5375 ...................................................... 2267
Health Care Authority, West Virginia – Health
  Information Network Account – Fund No. 5380 ......................... 2268
Health, Division of – The Health Facility
  Licensing Account – Fund No. 5172 ............................................. 2265
Health, Division of – Hepatitis B Vaccine –
  Fund No. 5183 ............................................................................. 2265
Health, Division of – Hospital Services Revenue
  Account – Special Fund – Capital Improvement,
  Renovation and Operations – Fund No. 5156 ............................... 2264
Health, Division of – Laboratory Services –
Ch. 1]  APPROPRIATIONS  2147

Health, Division of – Lead Abatement Account –
Fund No. 5163 ................................................................. 2265
Health, Division of – Ryan B Brown Addiction
Prevention and Recovery Fund – Fund No. 5111 ............. 2263
Health, Division of – Tobacco Control Special
Fund – Fund No. 5218 ...................................................... 2266
Health, Division of – The Vital Statistics Account –
Fund No. 5144 ................................................................. 2263
Health, Division of – West Virginia Birth-to-Three
Fund – Fund 5214 .............................................................. 2266
Human Services, Division of – Child Support
Enforcement Fund – Fund No. 5094 ................................. 2269
Human Services, Division of – Domestic
Violence Legal Services Fund – Fund No. 5455 ............... 2270
Human Services, Division of – Health Care
Provider Tax – Medicaid State Share Fund –
Fund No. 5090 ................................................................. 2268
Human Services, Division of – James “Tiger” Morton
Catastrophic Illness Fund – Fund No. 5454 ......................... 2269
Human Services, Division of – Marriage Education
Fund – Fund No. 5490 .......................................................... 2270
Human Services, Division of – Medical Services
Trust Fund – Fund No. 5185 ............................................. 2269
Human Service, Division of – West Virginia Works
Separate State College Program Fund –
Fund No. 5467 ................................................................. 2270
Human Service, Division of – West Virginia Works
Separate State Two – Parent Program Fund –
Fund No. 5468 ................................................................. 2270

HIGHER EDUCATION POLICY COMMISSION
Community and Technical College –
Capital Improvement Fund – Fund No. 4908 ....................... 2289
Higher Education Policy Commission – System –
Tuition Fee Capital Improvement Fund –
(Capital Improvement and Bond Retirement
Fund) – Control Account - Fund No. 4903 ................................ 2288
Higher Education Policy Commission – Tuition Fee
Revenue Bond Construction Fund – Fund No. 4906 .......... 2288
West Virginia University – West Virginia
University Health Sciences Center – Fund No. 4179 .......... 2289

JUDICIAL
Supreme Court – Adult Drug Court Participation Fund –
Fund No. 1705 ................................................................. 2232
Supreme Court – Court Advanced Technology Subscription
Fund – Fund No. 1704 .......................................................... 2231
Supreme Court - Family Court Fund – Fund No. 1763 .......... 2231
LEGISLATIVE

Crime Victims Compensation Fund – Fund No. 1731.......................... 2231

MILITARY AFFAIRS AND PUBLIC SAFETY, DEPARTMENT OF

Corrections, West Virginia Division of – Parolee Supervision Fees – Fund No. 6362......................................................... 2272

Fire Commission – Fire Marshal Fees – Fund No. 6152........................... 2275

Homeland Security and Emergency Management, Division of – Interoperable Radio Project – Fund No. 6295................................. 2272

Justice and Community Service, Division of – WV Community Corrections Fund – Fund No. 6386.................................................. 2276

Justice and Community Services, Division of – Court Security Fund – Fund No. 6804............................................................... 2276

Justice and Community Service, Division of – Second Chance Driver’s License Program Account – Fund No. 6810.............................. 2276

Military Affairs and Public Safety, Department of – Office of the Secretary – Law Enforcement, Safety and Emergency Worker Funeral Expense Payment Fund – Fund No. 6003................................................................. 2271

Regional Jail and Correctional Facility Authority – Fund No. 6675 ....... 2275

State Armory Board – General Armory Fund – Fund No. 6057.......................... 2271

State Police, West Virginia – Bail Bond Enforcer Account – Fund No. 6532................................................................. 2274

State Police, West Virginia – Central Abuse Registry Fund – Fund No. 6527................................................................. 2274

State Police, West Virginia – Drunk Driving Prevention Fund – Fund No. 6513................................................................. 2273

State Police, West Virginia – Motor Vehicle Inspection Fund – Fund No. 6501................................................................. 2272

State Police, West Virginia – State Police Academy Post Exchange – Fund No. 6544 .................................................. 2275

State Police, West Virginia – Surplus Real Property Proceeds Fund – Fund No. 6516................................................................. 2273

State Police, West Virginia – Surplus Transfer Account – Fund No. 6519................................................................. 2274

MISCELLANEOUS BOARDS AND COMMISSIONS

Barbers and Cosmetologists, Board of – Barbers and Beauticians Special Fund – Fund No. 5425.................................................. 2290

West Virginia Enterprise Resources Planning Board – Enterprise Resource Planning System Fund – Fund No. 9080 .............. 2296

Economic Development Authority – Cacapon and Beech Fork State Parks – Lottery Revenue Debt Service – Fund No. 9067................................. 2295

Examiners for Speech-Language Pathology and Audiology, West Virginia Board of – Fund No. 8646.................................................. 2294

Hospital Finance Authority Fund – Fund No. 5475................................. 2290
Licensed Dietitians, West Virginia Board of –  
Dieticians Licensure Board Fund – Fund No. 8680 ........................................ 2294
Licensed Practical Nurses, West Virginia State Board of Examiners for – Fund No. 8517 ................................................................. 2291
Massage Therapy Licensure Board – Massage Therapist Board Fund – Fund No. 8671 ................................................................. 2295
Medicine, Board of – Medical Licensing Board Fund – Fund No. 9070 ................................................................. 2295
Public Service Commission – Fund No. 8623 ........................................ 2291
Public Service Commission – Consumer Advocate Fund – Fund No. 8627 ................................................................. 2293
Public Service Commission – Gas Pipeline Division – Fund No. 8624 ................................................................. 2292
Public Service Commission – Motor Carrier Division – Fund No. 8625 ................................................................. 2292
Real Estate Commission – Real Estate License Fund – Fund No. 8635 ................................................................. 2293
Registered Professional Nurses, WV Board of Examiners for – Fund No. 8520 ................................................................. 2291
Respiratory Care, West Virginia Board of – Fund No. 8676 ................................................................. 2294
Treasury Investments, Board of – Board of Treasury Investments Fees Fund – Fund No. 9152 ................................................................. 2296

REVENUE, DEPARTMENT OF
Alcohol Beverage Control Administration – Fund No. 7352 ................................................................. 2284
Alcohol Beverage Control Administration – Wine License Special Fund – Fund No. 7351 ................................................................. 2284
Financial Institutions, Division of – Fund No. 3041 ................................................................. 2277
Insurance Commissioner – Insurance Commission Fund – Fund No. 7152 ................................................................. 2281
Insurance Commissioner – Consumer Advocate – Fund No. 7151 ................................................................. 2280
Insurance Commissioner – Examination Revolving Fund – Fund No. 7150 ................................................................. 2280
Insurance Commissioner – Self-Insured Employer Guaranty Risk Pool – Fund No. 7164 ................................................................. 2282
Insurance Commissioner – Self-Insured Employer Security Risk Pool – Fund No. 7165 ................................................................. 2282
Insurance Commissioner – Workers’ Compensation Old Fund – Fund No. 7162 ................................................................. 2281
Insurance Commissioner – Workers’ Compensation Uninsured Employers’ Fund – Fund No. 7163 ................................................................. 2281
Municipal Bond Commission – Fund No. 7253 ................................................................. 2282
Office of the Secretary – State Debt Reduction Fund – Fund No. 7007 ................................................................. 2277
Racing Commission – Administration and Promotion – Fund No. 7304 ................................................................. 2283
Racing Commission – Administration, Promotion,
Education Fund, Capital Improvement and Greyhound Adoption Programs to Include Spaying and Neutering
Account – Fund No. 7307
Racing Commission – General Administration –
Fund No. 7305
Racing Commission – Relief Fund – Fund No. 7300
State Athletic Commission Fund – Fund No. 7009
State Budget Office – Public Employees Insurance Reserve Fund – Fund No. 7400
State Budget Office – Public Employees Insurance Agency Financial Stability Fund – Fund No. 7401
Tax Division – Cemetery Company Account –
Fund No. 7071
Tax Division – Reduced Cigarette Ignition Propensity Standard and Fire Prevention Act Fund – Fund No. 7092
Tax Division – Special Audit and Investigative Unit – Fund No. 7073
Tax Division – Local Sales Tax and Excise Tax Administration Fund – Fund No. 7099
Tax Division – Wine Tax Administration Fund –
Fund No. 7087

SENIOR SERVICES, BUREAU OF
Senior Services, Bureau of – Community Based Service Fund – Fund No. 5409

TRANSPORTATION, DEPARTMENT OF
Highways, Division of –
A. James Manchin Fund – Fund No. 8319
Motor Vehicles, Division of –
Dealer Recovery Fund – Fund No. 8220
Motor Vehicles, Division of –
Motor Vehicle Fees Fund – Fund No. 8223

VETERANS’ ASSISTANCE, DEPARTMENT OF
Veterans’ Assistance, Department of – Veterans’ Facilities Support Fund – Fund No. 6703
Veterans’ Affairs, Department of – WV Veterans Home – Fund No. 6754

§4. Appropriations from lottery net profits.

APPROPRIATIONS
Community and Technical College – Capital Improvement Fund – Fund No. 4908
Culture and History, Division of – Lottery Education Fund – Fund No. 3534
Development Office, West Virginia – Division of
Tourism Office – Fund No. 3067 .............................................................. 2298
Education and the Arts, Department of – Office of the Secretary – Control Account – Lottery Education Fund – Fund No. 3508 ................................................................. 2300
Education, Arts, Sciences and Tourism – Debt Service Fund – Fund No. 2252 ................................................................. 2297
Education, State Board of – Fund No. 3951 .................................................... 2299
Education, State Department of – School Building Authority – Debt Service Fund – Fund No. 3963 ................................................................. 2299
Higher Education Policy Commission – Lottery Education – Higher Education Policy Commission – Control Account – Fund No. 4925 ................................................................. 2312
Higher Education Policy Commission – Lottery Education – Marshall University – School of Medicine – Fund No. 4896 ................................................................. 2315
Higher Education Policy Commission – Lottery Education – West Virginia University – School of Medicine – Fund No. 4185 ................................................................. 2314
Library Commission – Lottery Education Fund – Fund No. 3559 ................................................................. 2311
Natural Resources, Division of – Fund No. 3267 .................................................... 2298
Senior Services, Bureau of – Lottery Senior Citizens Fund – Fund No. 5405 ................................................................. 2311

§5. Appropriations from state excess lottery revenue fund.

APPROPRIATIONS
Corrections, Division of – Correctional Units – Fund No. 6283 ................................................................. 2321
Development Office, West Virginia – Fund No. 3170 ................................................................. 2320
Economic Development Authority – Economic Development Project Fund – Fund No. 9065 ................................................................. 2317
Education, State Department of – School Building Authority – Fund No. 3514 ................................................................. 2317
Governor’s Office – Fund No. 1046 ................................................................. 2319
Higher Education Policy Commission – Higher Education Improvement Fund – Fund No. 4297 ................................................................. 2318
Higher Education Policy Commission – Administration – Control Account – Fund No. 4932 ................................................................. 2320
Higher Education Policy Commission – Education Improvement Fund – Fund No. 4295 ................................................................. 2316
Human Services, Division of – Fund No. 5365 ................................................................. 2320
Infrastructure Council, West Virginia – West Virginia Infrastructure Transfer Fund – Fund No. 3390 ................................................................. 2317
Lottery Commission – Distributions to Statutory Funds and Purposes – Fund No. 7213 ................................................................. 2319
Lottery Commission – General Purpose Account – Fund No. 7206 ................................................................. 2316
Lottery Commission – Refundable Credit – Fund No. 7207 ................................................................. 2316
§6. Appropriations of federal funds.

<table>
<thead>
<tr>
<th>Department</th>
<th>Division/Fund</th>
<th>Appropriation</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commerce, Department of</td>
<td>Development Office, West Virginia</td>
<td>Fund No. 8705</td>
<td>2324</td>
</tr>
<tr>
<td></td>
<td>– Office of Economic Opportunity</td>
<td>Fund No. 8901</td>
<td>2325</td>
</tr>
<tr>
<td></td>
<td>Forestry, Division of</td>
<td>Fund No. 8703</td>
<td>2324</td>
</tr>
<tr>
<td></td>
<td>Geological and Economic Survey</td>
<td>Fund No. 8704</td>
<td>2324</td>
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<td>Labor, Division of</td>
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<td>Miners’ Health, Safety and Training</td>
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<td>Natural Resources, Division of</td>
<td>Fund No. 8707</td>
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<td>Fund No. 8714</td>
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<td>State Department of Education –</td>
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<td>Aid for Exceptional Children –</td>
<td>Fund No. 8715</td>
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<td>School Lunch Program – Fund No. 8713</td>
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<td>Education and the Arts, Department of</td>
<td>Culture and History, Division of</td>
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<td>Educational Broadcasting Authority</td>
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<td>Education and the Arts, Department of Office of the Secretary</td>
<td>Fund No. 8841</td>
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<td>Library Commission – Fund No. 8720</td>
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<td>Rehabilitation, State Board of –</td>
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<td>Division of Rehabilitation Services – Fund No. 8890</td>
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<td>Environmental Protection, Department of</td>
<td>Environmental Protection, Division of</td>
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<td>Agriculture, Department of – Fund No. 8736</td>
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<td>Agriculture, Department of – Land Protection Authority – Fund No. 8896</td>
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</tr>
</tbody>
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Agriculture, Department of – Meat Inspection – Fund No. 8737 ................................................................................... 2322
Agriculture, Department of – State Conservation Committee – Fund No. 8783 ............................................................. 2323
Governor’s Office – Fund No. 8742 ............................................................. 2322
Secretary of State – State Election Fund – Fund No. 8854 ................................................................................... 2323

HEALTH AND HUMAN RESOURCES, DEPARTMENT OF
Consolidated Medical Service Fund – Fund No. 8723 ............................................................................................ 2331
Health, Division of – Central Office – Fund No. 8802 ............................................................................................ 2331
Health, Division of – West Virginia Safe Drinking Water Treatment – Fund No. 8824 ..................................... 2332
Human Services, Division of – Fund No. 8722 ............................................................................................ 2333
Human Rights Commission – Fund No. 8725 ............................................................................................ 2332
West Virginia Health Care Authority – Fund No. 8851 ................................................................................... 2332

LEGISLATIVE
Crime Victims Compensation Fund – Fund No. 8738 ................................................................................... 2321

JUDICIAL
Supreme Court – Fund No. 8867 ............................................................................................ 2322

MILITARY AFFAIRS AND PUBLIC SAFETY, DEPARTMENT OF
Adjutant General – State Militia – Fund No. 8726 ............................................................................................ 2333
Adjutant General – West Virginia National Guard Counterdrug Forfeiture Fund – Fund No. 8785 ............................................................. 2334
Corrections, Division of – Fund No. 8836 ............................................................................................ 2334
Homeland Security and Emergency Management, Division of – Fund No. 8727 ............................................................................................ 2334
Fire Commission – Fund No. 8819 ............................................................................................ 2335
Justice and Community Services, Division of – Fund No. 8803 ............................................................................................ 2335
Office of the Secretary – Fund No. 8876 ............................................................................................ 2333
State Police, West Virginia – Fund No. 8741 ............................................................................................ 2335

MISCELLANEOUS BOARDS AND COMMISSIONS
National Coal Heritage Area Authority – Fund No. 8869 ............................................................................................ 2339
Public Service Commission – Gas Pipeline Division – Fund No. 8744 ............................................................................................ 2338
Public Service Commission – Motor Carrier Division – Fund No. 8743 ............................................................................................ 2338

REVENUE, DEPARTMENT OF
Insurance Commission – Fund No. 8883 ............................................................................................ 2336
SENIOR SERVICES, BUREAU OF
   Senior Services, Bureau of – Fund No. 8724........................................ 2338

TRANSPORTATION, DEPARTMENT OF
   Motor Vehicles, Division of – Fund No. 8787........................................... 2336
   Public Port Authority – Fund No. 8830................................................. 2337
   Public Transit, Division of – Fund No. 8745............................................ 2336

VETERANS’ ASSISTANCE, DEPARTMENT OF
   Veterans’ Assistance, Department of – Fund No. 8858............................. 2337
   Veterans’ Assistance, Department of – Veterans
      Home – Fund No. 8728 ..................................................................... 2337

§7. Appropriations from federal block grants.

APPROPRIATIONS
   Commerce, Department of – Office of Economic
      Opportunity – Community Services – Fund No. 8902....................... 2340
   Development Office, West Virginia – Community
      Development – Fund No. 8746.......................................................... 2339
   Health, Division of – Community Mental Health
      Services – Fund No. 8794............................................................... 2341
   Health, Division of – Maternal and Child
      Health – Fund No. 8750 ................................................................. 2340
   Health, Division of – Preventive Health –
      Fund No. 8753 ............................................................................... 2341
   Health, Division of – Substance Abuse Prevention
      and Treatment – Fund No. 8793 ...................................................... 2341
   Human Services, Division of – Child Care and
      Development – Fund No. 8817........................................................ 2342
   Human Services, Division of – Energy
      Assistance – Fund No. 8755 ................................................................ 2341
   Human Services, Division of – Social Services –
      Fund No. 8757 ............................................................................... 2342
   Human Services, Division of – Temporary Assistance
      For Needy Families – Fund No. 8816................................................. 2342
   Justice and Community Services, Division of –
      Juvenile Accountability Incentive – Fund No. 8829......................... 2343
   WorkForce West Virginia – Workforce Investment Act –
      Fund No. 8749 ............................................................................... 2340

§8. Awards for claims against the state.

§9. Appropriations from general revenue surplus accrued.
   Auditor, State – General Administration – Fund No. 0116 ....................... 2344
   General Services, Division of – Fund No. 0230....................................... 2344
   Human Service, Division of – Fund No. 0403......................................... 2344
   Tax Division – Fund No. 0470 ................................................................ 2344
§10. Appropriations from lottery net profits surplus accrued
   Senior Services, Bureau of –
   Lottery Senior Citizens Fund, Fund No. 5405 ................................... 2345

§11. Appropriations from state excess lottery revenue surplus accrued
   Human Services, Division of – Fund No. 5365 ................................. 2346

§12. Special Revenue Appropriations.
   Administration, Department of – Office of the Secretary –
   Gifts, Grants and Donations – Fund No. 2046................................. 2347
   Administration, Department of – Office of the Secretary –
   State Employee Sick Leave Fund – Fund No. 2045 .......................... 2347
   Administration, Department of – Division of Personnel –
   Civil Service Emergency Employment Fund – Fund No. 2444 .......... 2347
   Health and Human Resources, Department of – Division
   of Health – Breast and Cervical Diagnostic and
   Treatment Fund – Fund No. 5197...................................................... 2348
   Treasurer’s Office – Banking Services Fund – Fund No. 1322 .......... 2347

§14. Specific funds and collection accounts.
§15. Appropriations for refunding erroneous payment.
§16. Sinking fund deficiencies.
§17. Appropriations for local governments.
§18. Total appropriations.
§19. General school fund.

1 Section 1. Appropriations from general revenue. –
2 From the State Fund, General Revenue, there are hereby
3 appropriated conditionally upon the fulfillment of the
4 provisions set forth in Article 2, Chapter 11B the following
5 amounts, as itemized, for expenditure during the fiscal year
6 2018.
LEGISLATIVE

1-Senate

Fund 0165 FY 2018 Org 2100

<table>
<thead>
<tr>
<th>General</th>
<th>Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appropriation</td>
<td></td>
</tr>
<tr>
<td>Compensation of Members (R)</td>
<td>00300</td>
</tr>
<tr>
<td>Compensation and Per Diem of Officers and Employees (R)</td>
<td>00500</td>
</tr>
<tr>
<td>Current Expenses and Contingent Fund (R)</td>
<td>02100</td>
</tr>
<tr>
<td>Repairs and Alterations (R)</td>
<td>06400</td>
</tr>
<tr>
<td>Computer Supplies (R)</td>
<td>10100</td>
</tr>
<tr>
<td>Computer Systems (R)</td>
<td>10200</td>
</tr>
<tr>
<td>Printing Blue Book (R)</td>
<td>10300</td>
</tr>
<tr>
<td>Expenses of Members (R)</td>
<td>39900</td>
</tr>
<tr>
<td>BRIM Premium (R)</td>
<td>91300</td>
</tr>
<tr>
<td>Total</td>
<td></td>
</tr>
</tbody>
</table>

The appropriations for the Senate for the fiscal year 2017 are to remain in full force and effect and are hereby reappropriated to June 30, 2018; Provided that on July 1, 2017, the following reappropriated funds and amounts be transferred to the Division of Human Services - Medical Services Trust Fund, fund 5185: Fund 0165, fiscal year 2012, appropriation 00500, Compensation and Per Diem of Officers and Employees, $2,855,443.90; fund 0165, fiscal year 2012, appropriation 39900, Expenses of Members, $2,846,352.39; fund 0165, fiscal year 2012, appropriation 10200, Computer Systems, $2,475,425.32; fund 0165, fiscal year 2012, appropriation 00300, Compensation of Members, $1,994,589.96; fund 0165, fiscal year 2012, appropriation 01000, Employee Benefits, $1,075,030.30; fund 0165, fiscal year 2012, appropriation 06400, Repairs and Alterations, $752,131.08; and fund 0165, fiscal year
29 2012, appropriation 02100, Current Expenses and
30 Contingent Fund, $98,653.36. Any balances so
31 reappropriated may be transferred and credited to the fiscal
32 year 2017 accounts.

33 Upon the written request of the Clerk of the Senate, the
34 Auditor shall transfer amounts between items of the total
35 appropriation in order to protect or increase the efficiency
36 of the service.

37 The Clerk of the Senate, with the approval of the
38 President, is authorized to draw his or her requisitions upon
39 the Auditor, payable out of the Current Expenses and
40 Contingent Fund of the Senate, for any bills for supplies and
41 services that may have been incurred by the Senate and not
42 included in the appropriation bill, for supplies and services
43 incurred in preparation for the opening, the conduct of the
44 business and after adjournment of any regular or
45 extraordinary session, and for the necessary operation of the
46 Senate offices, the requisitions for which are to be
47 accompanied by bills to be filed with the Auditor.

48 The Clerk of the Senate, with the approval of the
49 President, or the President of the Senate shall have authority
50 to employ such staff personnel during any session of the
51 Legislature as shall be needed in addition to staff personnel
52 authorized by the Senate resolution adopted during any such
53 session. The Clerk of the Senate, with the approval of the
54 President, or the President of the Senate shall have authority
55 to employ such staff personnel between sessions of the
56 Legislature as shall be needed, the compensation of all staff
57 personnel during and between sessions of the Legislature,
58 notwithstanding any such Senate resolution, to be fixed by
59 the President of the Senate. The Clerk is hereby authorized
60 to draw his or her requisitions upon the Auditor for the
61 payment of all such staff personnel for such services,
62 payable out of the appropriation for Compensation and Per
63 Diem of Officers and Employees or Current Expenses and
64 Contingent Fund of the Senate.
For duties imposed by law and by the Senate, the Clerk of the Senate shall be paid a monthly salary as provided by the Senate resolution, unless increased between sessions under the authority of the President, payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

The distribution of the blue book shall be by the office of the Clerk of the Senate and shall include 75 copies for each member of the Legislature and two copies for each classified and approved high school and junior high or middle school and one copy for each elementary school within the state.

Included in the above appropriation for Senate (fund 0165, appropriation 02100), an amount not less than $5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

2-House of Delegates

<table>
<thead>
<tr>
<th>Fund 0170 FY 2018 Org 2200</th>
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<tbody>
<tr>
<td>Compensation of Members (R)</td>
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<td>$3,000,000</td>
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<tr>
<td>Compensation and Per Diem of Officers and Employees (R)</td>
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<td>Current Expenses and Contingent Fund (R)</td>
<td>02100</td>
<td>3,929,031</td>
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<tr>
<td>Expenses of Members (R)</td>
<td>39900</td>
<td>1,350,000</td>
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<tr>
<td>BRIM Premium (R)</td>
<td>91300</td>
<td>50,000</td>
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</tr>
<tr>
<td>Total</td>
<td></td>
<td>$8,904,031</td>
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</tr>
</tbody>
</table>

The appropriations for the House of Delegates for the fiscal year 2017 are to remain in full force and effect and are hereby reappropriated to June 30, 2018. Any balances so reappropriated may be transferred and credited to the fiscal year 2017 accounts.

Upon the written request of the Clerk of the House of Delegates, the Auditor shall transfer amounts between items
of the total appropriation in order to protect or increase the
efficiency of the service.

The Clerk of the House of Delegates, with the approval
of the Speaker, is authorized to draw his or her requisitions
upon the Auditor, payable out of the Current Expenses and
Contingent Fund of the House of Delegates, for any bills for
supplies and services that may have been incurred by the
House of Delegates and not included in the appropriation
bill, for bills for services and supplies incurred in
preparation for the opening of the session and after
adjournment, and for the necessary operation of the House
of Delegates’ offices, the requisitions for which are to be
accompanied by bills to be filed with the Auditor.

The Speaker of the House of Delegates, upon approval
of the House committee on rules, shall have authority to
employ such staff personnel during and between sessions of
the Legislature as shall be needed, in addition to personnel
designated in the House resolution, and the compensation of
all personnel shall be as fixed in such House resolution for
the session, or fixed by the Speaker, with the approval of the
House committee on rules, during and between sessions of
the Legislature, notwithstanding such House resolution. The
Clerk of the House of Delegates is hereby authorized to
draw requisitions upon the Auditor for such services,
payable out of the appropriation for the Compensation and
Per Diem of Officers and Employees or Current Expenses
and Contingent Fund of the House of Delegates.

For duties imposed by law and by the House of
Delegates, including salary allowed by law as keeper of the
rolls, the Clerk of the House of Delegates shall be paid a
monthly salary as provided in the House resolution, unless
increased between sessions under the authority of the
Speaker, with the approval of the House committee on rules,
and payable out of the appropriation for Compensation and
Per Diem of Officers and Employees or Current Expenses
and Contingent Fund of the House of Delegates.
Included in the above appropriation for House of Delegates (fund 0170, appropriation 02100), an amount not less than $5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

3-Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2018 Org 2300

1 Joint Committee on Government and Finance (R) ....................... 10400 $ 5,725,138
2 Legislative Printing (R) ....................... 10500 760,000
3 Legislative Rule-Making
4 Review Committee (R)............. 10600 147,250
5 Legislative Computer System (R).. 10700 1,447,500
6 BRIM Premium (R) ....................... 91300 60,569
7 Total............................................... 8,140,457

The appropriations for the Joint Expenses for the fiscal year 2017 are to remain in full force and effect and are hereby reappropriated to June 30, 2018. Any balances reappropriated may be transferred and credited to the fiscal year 2017 accounts.

Upon the written request of the Clerk of the Senate, with the approval of the President of the Senate, and the Clerk of the House of Delegates, with the approval of the Speaker of the House of Delegates, and a copy to the Legislative Auditor, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

JUDICIAL

4-Supreme Court –

General Judicial

Fund 0180 FY 2018 Org 2400
The appropriations to the Supreme Court of Appeals for the fiscal years 2016 and 2017 are to remain in full force and effect and are hereby reappropriated to June 30, 2018. Any balances so reappropriated may be transferred and credited to the fiscal year 2017 accounts.

This fund shall be administered by the Administrative Director of the Supreme Court of Appeals, who shall draw requisitions for warrants in payment in the form of payrolls, making deductions there from as required by law for taxes and other items.

The appropriation for the Judges’ Retirement System (fund 0180, appropriation 11000) is to be transferred to the Consolidated Public Retirement Board, in accordance with the law relating thereto, upon requisition of the Administrative Director of the Supreme Court of Appeals.

EXECUTIVE

5-Governor’s Office

(WV Code Chapter 5)

Fund 0101 FY 2018 Org 0100

1 Personal Services and
2 Employee Benefits ................... 00100 $ 3,098,903
3 Current Expenses (R) .................. 13000 571,648
1 Repairs and Alterations .......................... 06400 2,000
2 National Governors Association........ 12300 60,700
3 Herbert Henderson
4 Office of Minority Affairs .......... 13400 146,726
5 BRIM Premium ................................. 91300 169,079
6 Total ........................................ $4,049,056

7 Any unexpended balances remaining in the
8 appropriations for Unclassified (fund 0101, appropriation
9 09900), and Current Expenses (fund 0101, appropriation
10 13000) at the close of the fiscal year 2017 are hereby
11 reappropriated for expenditure during the fiscal year 2018.

12 Included in the above appropriation to Personal Services
13 and Employee Benefits (fund 0101, appropriation 00100),
14 is $150,000 for the Salary of the Governor.

15 The above appropriation for Herbert Henderson Office
16 of Minority Affairs (fund 0101, appropriation 13400) shall
17 be transferred to the Minority Affairs Fund (fund 1058).

6-Governor’s Office –

Custodial Fund

(WV Code Chapter 5)

Fund 0102 FY 2018 Org 0100

1 Personal Services and Employee Benefits................. 00100 $ 351,089
2 Current Expenses (R)................................ 13000 182,708
3 Repairs and Alterations ...................................... 06400 5,000
4 Total ........................................... $538,797

6 Any unexpended balance remaining in the appropriation
7 for Current Expenses (fund 0102, appropriation 13000) at
8 the close of the fiscal year 2017 is hereby reappropriated for
9 expenditure during the fiscal year 2018, with the exception
10 of fund 0102, fiscal year 2017, appropriation 13000
11 ($20,000) which shall expire June 30, 2017.
Appropriations are to be used for current general expenses, including compensation of employees, household maintenance, cost of official functions and additional household expenses occasioned by such official functions.

7-Governor’s Office –

Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2018 Org 0100

Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund 0105, appropriation 08400), Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Civil Contingent Fund – Total – Surplus (fund 0105, appropriation 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), and Natural Disasters – Surplus (fund 0105, appropriation 76400) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year.

From this fund there may be expended, at the discretion of the Governor, an amount not to exceed $1,000 as West Virginia’s contribution to the interstate oil compact commission.

The above fund is intended to provide contingency funding for accidental, unanticipated, emergency or unplanned events which may occur during the fiscal year and is not to be expended for the normal day-to-day operations of the Governor’s Office.

8-Auditor’s Office –

General Administration
### Fund 0116 FY 2018 Org 1200

1. Personal Services and Employee Benefits ................... 00100 $ 2,620,288
2. Current Expenses (R) .................................. 13000 10,622
3. BRIM Premium ........................................ 91300 11,287
4. Total .................................................................. $ 2,642,197

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0116, appropriation 00100), is $95,000 for the Salary of the Auditor.

### 9-Treasurer’s Office

### Fund 0126 FY 2018 Org 1300

1. Personal Services and Employee Benefits ................... 00100 $ 2,424,551
2. Unclassified ............................................... 09900 30,963
3. Current Expenses (R) ...................................... 13000 472,377
4. Abandoned Property Program ........ 11800 41,794
5. Other Assets .................................................. 69000 10,000
6. ABLE Program .............................................. 69201 150,000
7. BRIM Premium .............................................. 91300 54,409
8. Total .................................................................. $ 3,184,094

Any unexpended balances remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.
Included in the above appropriation to Personal Services and Employee Benefits (fund 0126, appropriation 00100), is $95,000 for the Salary of the Treasurer.

**10-Department of Agriculture**

(WV Code Chapter 19)

Fund 0131 FY 2018 Org 1400

| 1 Personal Services and Employee Benefits | 00100 | $5,105,550 |
| 2 Animal Identification Program | 03900 | 121,528 |
| 3 State Farm Museum | 05500 | 87,759 |
| 4 Current Expenses (R) | 13000 | 135,155 |
| 5 Gypsy Moth Program (R) | 11900 | 917,769 |
| 6 Huntington Farmers Market | 12800 | 37,142 |
| 7 Black Fly Control | 13700 | 450,434 |
| 8 Donated Foods Program | 36300 | 45,000 |
| 9 Predator Control (R) | 47000 | 176,400 |
| 10 Logan Farmers Market | 50100 | 40,988 |
| 11 Bee Research | 69100 | 65,470 |
| 12 Charleston Farmers Market | 74600 | 71,429 |
| 13 Microbiology Program | 78500 | 97,126 |
| 14 Moorefield Agriculture Center | 78600 | 905,605 |
| 15 Chesapeake Bay Watershed | 83000 | 102,023 |
| 16 Livestock Care Standards Board | 84300 | 8,820 |
| 17 BRIM Premium | 91300 | 129,818 |
| 18 State FFA-FHA Camp and Conference Center | 94101 | 586,215 |
| 19 Threat Preparedness | 94200 | 68,987 |
| 20 WV Food Banks | 96900 | 126,000 |
| 21 Senior’s Farmers’ Market | 97000 | 55,840 |
| 22 Total | | $9,335,058 |

Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0131, appropriation 09700), Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131,
appropriation 13000), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0131, fiscal year 2017, appropriation 11900 ($18,859), fund 0131, fiscal year 2017, appropriation 13000 ($19,343), and fund 0131, fiscal year 2017, appropriation 47000 ($3,600) which shall expire on June 30, 2017.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0131, appropriation 00100), is $95,000 for the Salary of the Commissioner.

The above appropriation for Predator Control (fund 0131, appropriation 47000) is to be made available to the United States Department of Agriculture, Wildlife Services to administer the Predator Control Program.

A portion of the Current Expenses appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for marketing and development activities.

From the above appropriation for WV Food Banks (fund 0131, appropriation 96900), $20,000 is for House of Hope and the remainder of the appropriation shall be allocated to the Huntington Food Bank and the Mountaineer Food Bank in Braxton County.

11-West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2018 Org 1400

<table>
<thead>
<tr>
<th>Category</th>
<th>Org</th>
<th>Amount</th>
</tr>
</thead>
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<td>Personal Services and Employee</td>
<td>00100</td>
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<tr>
<td>Benefits</td>
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<tr>
<td>Unclassified (R)</td>
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<tr>
<td>Current Expenses (R)</td>
<td>13000</td>
<td>316,049</td>
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<td>Appropriations</td>
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</tr>
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<td>5</td>
<td>Soil Conservation Projects (R) .......</td>
<td>12000</td>
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<tr>
<td>6</td>
<td>BRIM Premium..............................</td>
<td>91300</td>
</tr>
<tr>
<td>7</td>
<td>Total.........................................</td>
<td></td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the appropriations for Unclassified (fund 0132, appropriation 09900), Soil Conservation Projects (fund 0132, appropriation 12000), and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0132, fiscal year 2017, appropriation 12000 ($157,439) which shall expire on June 30, 2017.

12-Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 0135 FY 2018 Org 1400

<table>
<thead>
<tr>
<th></th>
<th>Personal Services and</th>
<th></th>
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</tr>
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<tr>
<td>2</td>
<td>Employee Benefits.................</td>
<td>00100</td>
<td>$620,127</td>
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<td>09900</td>
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<td>$81,880</td>
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<tr>
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<td>Total.........................................</td>
<td></td>
<td>$709,097</td>
</tr>
</tbody>
</table>

Any part or all of this appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for the above-named program.

13-Department of Agriculture –

Agricultural Awards Fund

(WV Code Chapter 19)

Fund 0136 FY 2018 Org 1400

<table>
<thead>
<tr>
<th></th>
<th>Programs and Awards for</th>
<th></th>
<th></th>
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<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
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<tr>
<td>2</td>
<td>4-H Clubs and FFA/FHA ........</td>
<td>57700</td>
<td>$15,000</td>
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<tr>
<td>3</td>
<td>Commissioner’s Awards and Programs</td>
<td>73700</td>
<td>39,250</td>
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<td>5</td>
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<td>54,250</td>
</tr>
</tbody>
</table>

14-Department of Agriculture –

*West Virginia Agricultural Land Protection Authority*

(WV Code Chapter 8A)

Fund 0607 FY 2018 Org 1400

<table>
<thead>
<tr>
<th>1</th>
<th>Personal Services and</th>
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<tr>
<td>2</td>
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<td>09900</td>
<td>950</td>
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<td>95,773</td>
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</table>

15-Attorney General

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2018 Org 1500

<table>
<thead>
<tr>
<th>1</th>
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<tbody>
<tr>
<td>2</td>
<td>Employee Benefits (R)</td>
<td>00100</td>
<td>2,281,145</td>
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<tr>
<td>3</td>
<td>Unclassified (R)</td>
<td>09900</td>
<td>24,428</td>
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<td>Current Expenses (R)</td>
<td>13000</td>
<td>752,408</td>
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<td>5</td>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>1,000</td>
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<tr>
<td>6</td>
<td>Equipment</td>
<td>07000</td>
<td>1,000</td>
</tr>
<tr>
<td>7</td>
<td>Criminal Convictions and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Habeas Corpus Appeals (R)</td>
<td>26000</td>
<td>908,529</td>
</tr>
<tr>
<td>9</td>
<td>Better Government Bureau</td>
<td>74000</td>
<td>271,991</td>
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<tr>
<td>10</td>
<td>BRIM Premium</td>
<td>91300</td>
<td>112,761</td>
</tr>
<tr>
<td>11</td>
<td>Total</td>
<td></td>
<td>4,353,262</td>
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</tbody>
</table>

Any unexpended balances remaining in the above appropriations for Personal Services and Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation 09900), Current Expenses (fund 0150, appropriation 13000), Criminal Convictions and Habeas...
Corpus Appeals (fund 0150, appropriation 26000), and Agency Client Revolving Liquidity Pool (fund 0150, appropriation 36200) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0150, fiscal year 2017, appropriation 09900 ($20,000), and fund 0150, fiscal year 2017, appropriation 26000 ($69,575) which shall expire on June 30, 2017.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0150, appropriation 00100), is $95,000 for the Salary of the Attorney General.

When legal counsel or secretarial help is appointed by the Attorney General for any state spending unit, this account shall be reimbursed from such spending units specifically appropriated account or from accounts appropriated by general language contained within this bill: Provided, That the spending unit shall reimburse at a rate and upon terms agreed to by the state spending unit and the Attorney General: Provided, however, That if the spending unit and the Attorney General are unable to agree on the amount and terms of the reimbursement, the spending unit and the Attorney General shall submit their proposed reimbursement rates and terms to the Governor for final determination.

16-Secretary of State

(WV Code Chapters 3, 5 and 59)

Fund 0155 FY 2018 Org 1600

<table>
<thead>
<tr>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>Personal Services and</td>
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<tr>
<td>Employee Benefits..................</td>
<td>00100</td>
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<td>Unclassified (R)....................</td>
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<td>Current Expenses (R)..............</td>
<td>13000</td>
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<td>BRIM Premium.......................</td>
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<td>21,695</td>
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<td>Total</td>
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<td>$954,336</td>
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</table>
Any unexpended balances remaining in the appropriations for Unclassified (fund 0155, appropriation 09900) and Current Expenses (fund 0155, appropriation 13000) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0155, fiscal year 2017 appropriation 13000 ($19,613) which shall expire on June 30, 2017.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0155, appropriation 00100), is $95,000 for the Salary of the Secretary of State.

17-State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2018 Org 1601

<table>
<thead>
<tr>
<th>Description</th>
<th>Fund</th>
<th>Org</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
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<td></td>
<td>$2,477</td>
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<tr>
<td>Unclassified</td>
<td>09900</td>
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<td>$75</td>
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<td>Current Expenses</td>
<td>13000</td>
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<td>$7,508</td>
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DEPARTMENT OF ADMINISTRATION

18-Department of Administration –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0186 FY 2018 Org 0201

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<th>Description</th>
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<th>Org</th>
<th>Amount</th>
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<td>Personal Services and Employee Benefits</td>
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<td>13000</td>
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<td>Equipment</td>
<td>07000</td>
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<td>$1,000</td>
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<tr>
<td>Financial Advisor (R)</td>
<td>30400</td>
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<td>$27,546</td>
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</table>
Lease Rental Payments ..................  51600  15,000,000 8
Design-Build Board .......................  54000  4,000 9
Other Assets ...................................  69000  100 10
BRIM Premium..............................  91300  5,887
Total...........................................   $ 15,713,340 12

Any unexpended balance remaining in the appropriation
for Financial Advisor (fund 0186, appropriation 30400) at
the close of the fiscal year 2017 is hereby reappropriated for
expenditure during the fiscal year 2018, with the exception
of fund 0186, fiscal year 2017, appropriation 30400
($73,000) which shall expire on June 30, 2017.

The appropriation for Lease Rental Payments (fund
0186, appropriation 51600) shall be disbursed as provided

19-Consolidated Public Retirement Board
(WV Code Chapter 5)
Fund 0195 FY 2018 Org 0205

The Division of Highways, Division of Motor Vehicles,
Public Service Commission and other departments, bureaus,
divisions, or commissions operating from special revenue
funds and/or federal funds shall pay their proportionate
share of the retirement costs for their respective divisions.
When specific appropriations are not made, such payments
may be made from the balances in the various special
revenue funds in excess of specific appropriations.

20-Division of Finance
(WV Code Chapter 5A)
Fund 0203 FY 2018 Org 0209

Personal Services and
Employee Benefits............... 00100  $ 65,574
Unclassified .............................. 09900  1,400
<table>
<thead>
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<tr>
<td>GAAP Project (R)</td>
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<td>BRIM Premium</td>
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<td>5,625</td>
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<td><strong>Total</strong></td>
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<td><strong>731,754</strong></td>
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</table>

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

21-Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2018 Org 0211

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>FY 2018</th>
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</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
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<td>Unclassified</td>
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<td>20,000</td>
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<td>Current Expenses</td>
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<td>06400</td>
<td>500</td>
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<tr>
<td>Equipment</td>
<td>07000</td>
<td>5,000</td>
</tr>
<tr>
<td>Fire Service Fee</td>
<td>12600</td>
<td>14,000</td>
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<tr>
<td>Buildings (R)</td>
<td>25800</td>
<td>500</td>
</tr>
<tr>
<td>Statues and Monuments</td>
<td>37100</td>
<td>68,000</td>
</tr>
<tr>
<td>On Capitol Grounds</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Capital Outlay, Repairs and Equipment (R)</td>
<td>58900</td>
<td>4,122,932</td>
</tr>
<tr>
<td>Other Assets</td>
<td>69000</td>
<td>500</td>
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<tr>
<td>Land (R)</td>
<td>73000</td>
<td>500</td>
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<td>BRIM Premium</td>
<td>91300</td>
<td>121,479</td>
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<td><strong>Total</strong></td>
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<td><strong>7,582,642</strong></td>
</tr>
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</table>

Any unexpended balances remaining in the above appropriations for Buildings (fund 0230, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900), Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700), and Land (fund 0230, appropriation 73000) at the close of the
fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

From the above appropriation for Preservation and Maintenance of Statues and Monuments on Capitol Grounds (fund 0230, appropriation 37100), the Division shall consult the Division of Culture and History and Capitol Building Commission in all aspects of planning, assessment, maintenance and restoration.

The above appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) shall be expended for capital improvements, maintenance, repairs and equipment for state-owned buildings.

22-Division of Purchasing
(WV Code Chapter 5A)

Fund 0210 FY 2018 Org 0213

1 Personal Services and Employee Benefits............... 00100 $ 997,906
2 Unclassified ................................... 09900 144
3 Current Expenses ........................... 13000 250
4 Repairs and Alterations............. 06400 200
5 BRIM Premium.............................. 91300 6,469
6 Total.................................... $ 1,004,969

The Division of Highways shall reimburse Fund 2031 within the Division of Purchasing for all actual expenses incurred pursuant to the provisions of W.Va. Code §17-2A-13.

23-Travel Management
(WV Code Chapter 5A)

Fund 0615 FY 2018 Org 0215

1 Personal Services and Employee Benefits............... 00100 $ 762,556
3 Unclassified ............................... 09900 12,032
4 Current Expenses ......................... 13000 430,532
5 Repairs and Alterations .................. 06400 1,000
6 Equipment ................................. 07000 5,000
7 Buildings (R) ............................... 25800 100
8 Other Assets ............................... 69000 100
9 Total ......................................... $ 1,211,320

Any unexpended balance remaining in the appropriation for Buildings (fund 0615, appropriation 25800) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

24-Commission on Uniform State Laws

(WV Code Chapter 29)
Fund 0214 FY 2018 Org 0217

1 Current Expenses ........................... 13000 $ 45,550

To pay expenses for members of the commission on uniform state laws.

25-West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)
Fund 0220 FY 2018 Org 0219

1 Personal Services and
2 Employee Benefits .......................... 00100 $ 911,114
3 Unclassified ................................ 09900 1,000
4 Current Expenses ........................... 13000 142,854
5 Equipment ................................... 07000 50
6 BRIM Premium .............................. 91300 9,608
7 Total ......................................... $ 1,064,626

26-Ethics Commission

(WV Code Chapter 6B)
### Fund 0223 FY 2018 Org 0220

1. **Personal Services and Employee Benefits**
   - **00100**: $575,930
2. **Unclassified**
   - **09900**: $2,200
3. **Current Expenses**
   - **13000**: $104,637
4. **Repairs and Alterations**
   - **06400**: $500
5. **Other Assets**
   - **69000**: $100
6. **BRIM Premium**
   - **91300**: $4,473
7. **Total**: $687,840

### Fund 0226 FY 2018 Org 0221

1. **Personal Services and Employee Benefits**
   - **00100**: $1,322,946
2. **Unclassified**
   - **09900**: $314,700
3. **Current Expenses**
   - **13000**: $11,165
4. **Public Defender Corporations**
   - **35200**: $19,198,028
5. **Appointed Counsel Fees (R)**
   - **78800**: $10,723,115
6. **BRIM Premium**
   - **91300**: $9,594
7. **Total**: $31,579,548

Any unexpended balance remaining in the above appropriation for Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

The director shall have the authority to transfer funds from the appropriation to Public Defender Corporations (fund 0226, appropriation 35200) to Appointed Counsel Fees (fund 0226, appropriation 78800).

### 27-Public Defender Services

(WV Code Chapter 29)

### 28-Committee for the Purchase of Commodities and Services from the Handicapped
29-Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2018 Org 0225

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the public employees health insurance cost for their respective divisions.

30-West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2018 Org 0228

Forensic Medical

Federal Funds/Grant Match (R) 74900 98,443

Total 236,397

Any unexpended balances remaining in the appropriations for Forensic Medical Examinations (fund 0557, appropriation 68300) and Federal Funds/Grant Match (fund 0557, appropriation 74900) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

31-Real Estate Division
### DEPARTMENT OF COMMERCE

#### 32-Division of Forestry

(WV Code Chapter 19)

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
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<th>Amount</th>
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<tbody>
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<td>Personal Services and</td>
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<td>$ 642,679</td>
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<td>2</td>
<td>Employee Benefits</td>
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<td>1,000</td>
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<td>3</td>
<td>Unclassified</td>
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<td>4</td>
<td>Current Expenses</td>
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</tr>
<tr>
<td>5</td>
<td>Repairs and Alterations</td>
<td>07000</td>
<td>2,500</td>
</tr>
<tr>
<td>6</td>
<td>Equipment (R)</td>
<td>91300</td>
<td>7,976</td>
</tr>
<tr>
<td>7</td>
<td>BRIM Premium</td>
<td></td>
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</tr>
<tr>
<td>8</td>
<td>Total</td>
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<td>$ 792,181</td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the appropriation for Equipment (fund 0250, appropriation 07000) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

Out of the above appropriations a sum may be used to match federal funds for cooperative studies or other funds for similar purposes.

#### 33-Geological and Economic Survey

(WV Code Chapter 29)
Fund 0253 FY 2018 Org 0306

1. Personal Services and Employee Benefits ................. 00100 $ 1,561,820
2. Unclassified ........................................ 09900 28,173
3. Current Expenses .................................... 13000 49,140
4. Repairs and Alterations ............................... 06400 968
5. Mineral Mapping System (R) ........ 20700 1,096,873
6. BRIM Premium ......................................... 91300 22,766
7. Total ..................................... $ 2,759,740

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0253, fiscal year 2017, appropriation 20700 ($57,599) which shall expire on June 30, 2017.

The above Unclassified and Current Expense appropriations include funding to secure federal and other contracts and may be transferred to a special revolving fund (fund 3105) for the purpose of providing advance funding for such contracts.

34-West Virginia Development Office

(WV Code Chapter 5B)

Fund 0256 FY 2018 Org 0307

1. Personal Services and Employee Benefits ................. 00100 $ 4,261,006
2. Save Our State (SOS) ................................. 05050 0
3. Current Expenses .................................... 13000 3,763,900
4. National Youth Science Camp....... 13200 241,570
5. Local Economic Development Partnerships (R) ........ 13300 792,000
6. ARC Assessment ................................. 13600 152,585
7. Guaranteed Work Force Grant (R)...... 24200 969,633
Mainstreet Program........................  79400  163,758
BRIM Premium..............................  91300  2,345
Hatfield McCoy Recreational Trail  96000  198,415

Total.........................................   $ 10,653,899

Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0256, appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic Development Partnerships (fund 0256, appropriation 13300), Guaranteed Work Force Grant (fund 0256, appropriation 24200), Industrial Park Assistance (fund 0256, appropriation 48000), Small Business Development (fund 0256, appropriation 70300), Local Economic Development Assistance (fund 0256, appropriation 81900), and 4-H Camp Improvements (fund 0256, appropriation 94100) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

The above appropriation to Local Economic Development Partnerships (fund 0256, appropriation 13300) shall be used by the West Virginia Development Office for the award of funding assistance to county and regional economic development corporations or authorities participating in the Certified Development Community Program developed under the provisions of W.Va. Code §5B-2-14. The West Virginia Development Office shall award the funding assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed $34,000 per county served by an economic development or redevelopment corporation or authority.

35-Division of Natural Resources
(WV Code Chapter 20)

Fund 0265 FY 2018 Org 0310

Personal Services and Employee Benefits...............  00100   $ 15,476,492
3  Unclassified ..............................  09900  184,711
4  Current Expenses .........................  13000  170,047
5  Repairs and Alterations .................  06400  100
6  Equipment .................................  07000  100
7  Buildings .................................  25800  100
8  Litter Control
   Conservation Officers ..............  56400  139,877
9  Upper Mud River Flood Control .....  65400  159,762
10 Other Assets .............................  69000  100
11 Land (R) ....................................  73000  100
12 Law Enforcement .......................  80600  2,413,523
13 BRIM Premium ............................  91300  23,470
14 Total ......................................   $ 18,568,382

Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

Any revenue derived from mineral extraction at any state park shall be deposited in a special revenue account of the Division of Natural Resources, first for bond debt payment purposes and with any remainder to be for park operation and improvement purposes.

36-Division of Miners’ Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2018 Org 0314

1  Personal Services and
2   Employee Benefits ......................  00100  $ 9,205,577
3  Unclassified .............................  09900  120,000
4  Current Expenses .......................  13000  1,378,532
5  Coal Dust and
6   Rock Dust Sampling ...................  27000  474,050
7  BRIM Premium ...........................  91300  75,110
8  Total ......................................   $ 11,253,269
Included in the above appropriation for Current Expenses (fund 0277, appropriation 13000) is $500,000 to be used for coal mine training activities at an established mine training facility in southern West Virginia.

### 37-Board of Coal Mine Health and Safety

**(WV Code Chapter 22)**

**Fund 0280 FY 2018 Org 0319**

<table>
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<tr>
<td>5</td>
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<td>$348,018</td>
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### 38-WorkForce West Virginia

**(WV Code Chapter 23)**

**Fund 0572 FY 2018 Org 0323**

<table>
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<tr>
<td>3</td>
<td>13000</td>
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<td>5</td>
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</tbody>
</table>

### 39-Department of Commerce – Office of the Secretary

**(WV Code Chapter 19)**

**Fund 0606 FY 2018 Org 0327**

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
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<tbody>
<tr>
<td>1</td>
<td>00100</td>
<td>$398,752</td>
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<tr>
<td>2</td>
<td>09900</td>
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<tr>
<td>3</td>
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<tr>
<td>4</td>
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<tr>
<td>5</td>
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<td>416,977</td>
</tr>
</tbody>
</table>
40-Office of Energy

(WV Code Chapter 5B)

Fund 0612 FY 2018 Org 0328

1 Personal Services and
2 Employee Benefits.................... 00100 $ 194,457
3 Unclassified ........................... 09900 15,204
4 Current Expenses ...................... 13000 1,026,720
5 BRIM Premium ......................... 91300 3,604
6 Total .................................... $ 1,239,985

7 From the above appropriation for Current Expenses
8 (fund 0612, appropriation 13000) $558,247 is for West
9 Virginia University and $308,247 is for Southern West
10 Virginia Community and Technical College for the Mine
11 Training and Energy Technologies Academy.

DEPARTMENT OF EDUCATION

41-State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2018 Org 0402

1 Personal Services and
2 Employee Benefits .................... 00100 $ 321,931
3 Current Expenses ...................... 13000 2,118,490
4 Total .................................... $ 2,440,421

42-State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2018 Org 0402

1 Personal Services and
<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee Benefits</td>
<td>00100</td>
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<td>Technology System Specialist</td>
<td>06200</td>
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<tr>
<td>Teachers’ Retirement</td>
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<tr>
<td>Savings Realized</td>
<td>09500</td>
<td>34,638,000</td>
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<tr>
<td>Unclassified (R)</td>
<td>09900</td>
<td>300,000</td>
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<tr>
<td>Current Expenses (R)</td>
<td>13000</td>
<td>2,518,992</td>
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<tr>
<td>Equipment</td>
<td>07000</td>
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<tr>
<td>Increased Enrollment</td>
<td>14000</td>
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<tr>
<td>Safe Schools</td>
<td>14300</td>
<td>4,911,959</td>
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<tr>
<td>Teacher Mentor</td>
<td>15800</td>
<td>550,000</td>
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<tr>
<td>National Teacher Certification (R)</td>
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<td>300,000</td>
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<tr>
<td>Buildings (R)</td>
<td>25800</td>
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<tr>
<td>Allowance for County Transfers</td>
<td>26400</td>
<td>64,212</td>
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<tr>
<td>Technology Repair and Modernization</td>
<td>29800</td>
<td>951,003</td>
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<tr>
<td>HVAC Technicians</td>
<td>35500</td>
<td>495,507</td>
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<tr>
<td>Early Retirement</td>
<td>36600</td>
<td>300,000</td>
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<tr>
<td>MATH Program</td>
<td>36800</td>
<td>336,532</td>
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<tr>
<td>Assessment Programs</td>
<td>39600</td>
<td>1,339,588</td>
</tr>
<tr>
<td>21st Century Fellows</td>
<td>50700</td>
<td>274,899</td>
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<tr>
<td>English as a Second Language</td>
<td>52800</td>
<td>96,000</td>
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<tr>
<td>Teacher Reimbursement</td>
<td>57300</td>
<td>297,188</td>
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<tr>
<td>Hospitality Training</td>
<td>60000</td>
<td>267,123</td>
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<tr>
<td>Hi-Y Youth in Government</td>
<td>61600</td>
<td>100,000</td>
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<tr>
<td>High Acuity Special Needs (R)</td>
<td>63400</td>
<td>1,500,000</td>
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<td>Foreign Student Education</td>
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<td>150,000</td>
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<tr>
<td>Principals Mentorship</td>
<td>64900</td>
<td>69,250</td>
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<td>State Board of Education</td>
<td>68400</td>
<td>266,152</td>
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<tr>
<td>Administrative Costs</td>
<td>69000</td>
<td>1,000</td>
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<tr>
<td>IT Academy (R)</td>
<td>72100</td>
<td>500,000</td>
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<tr>
<td>Land (R)</td>
<td>73000</td>
<td>1,000</td>
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<tr>
<td>Early Literacy Program</td>
<td>75600</td>
<td>5,700,000</td>
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<tr>
<td>School Based Truancy</td>
<td>78101</td>
<td>2,000,000</td>
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<tr>
<td>Prevention (R)</td>
<td>78102</td>
<td>0</td>
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<tr>
<td>Innovation in Education</td>
<td>88600</td>
<td>1,706,441</td>
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<tr>
<td>21st Century Learners (R)</td>
<td>91300</td>
<td>320,429</td>
</tr>
</tbody>
</table>
The above appropriations include funding for the state board of education and their executive office.

Any unexpended balances remaining in the appropriations for Unclassified (fund 0313, appropriation 09900), Current Expenses (fund 0313, appropriation 13000), National Teacher Certification (fund 0313, appropriation 16100), Buildings (fund 0313, appropriation 25800), High Acuity Special Needs (fund 0313, appropriation 63400), IT Academy (fund 0313, appropriation 72100), Land (fund 0313, appropriation 73000), School Based Truancy Prevention (fund 0313, appropriation 78101), and 21st Century Learners (fund 0313, appropriation 88600) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

The above appropriation for Teachers’ Retirement Savings Realized (fund 0313, appropriation 09500) shall be transferred to the Employee Pension and Health Care Benefit Fund (fund 2044).

The above appropriation for Hospitality Training (fund 0313, appropriation 60000), shall be allocated only to entities that have a plan approved for funding by the Department of Education, at the funding level determined by the State Superintendent of Schools. Plans shall be submitted to the State Superintendent of Schools to be considered for funding.

From the above appropriation for Educational Program Allowance (fund 0313, appropriation 99600), $100,000
shall be expended for Webster County Board of Education for Hacker Valley; $150,000 shall be for the Randolph County Board of Education for Pickens School; $100,000 shall be for the Preston County Board of Education for the Aurora School; $100,000 shall be for the Fayette County Board of Education for Meadow Bridge; and $66,250 is for Project Based Learning in STEM fields.

43-State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2018 Org 0402

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Education – Counties........</td>
<td>15900</td>
<td>$ 7,271,757</td>
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<tr>
<td>Special Education – Institutions.....</td>
<td>16000</td>
<td>3,748,794</td>
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<tr>
<td>Education of Juveniles Held in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Predispositional Juvenile</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Detention Centers.......................</td>
<td>30200</td>
<td>591,646</td>
</tr>
<tr>
<td>Education of Institutionalized</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Juveniles and Adults (R)...............</td>
<td>47200</td>
<td>17,736,957</td>
</tr>
<tr>
<td>Total....................................</td>
<td></td>
<td>$ 29,349,154</td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the appropriation for Education of Institutionalized Juveniles and Adults (fund 0314, appropriation 47200) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

From the above appropriations, the superintendent shall have authority to expend funds for the costs of special education for those children residing in out-of-state placements.

44-State Board of Education –

State Aid to Schools

(WV Code Chapters 18 and 18A)
### Fund 0317 FY 2018 Org 0402

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Other Current Expenses</td>
<td>02200</td>
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<tr>
<td>Advanced Placement</td>
<td>05300</td>
<td>553,954</td>
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<tr>
<td>Professional Educators</td>
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<td>Service Personnel</td>
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<td>286,915,321</td>
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<td>Fixed Charges</td>
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<td>100,484,631</td>
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<td>Transportation</td>
<td>15400</td>
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<tr>
<td>Professional Student Support Services</td>
<td>65500</td>
<td>36,952,999</td>
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<tr>
<td>Improved Instructional Programs</td>
<td>15600</td>
<td>49,131,108</td>
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<tr>
<td>Technology Learning Growth</td>
<td>93600</td>
<td>20,756,981</td>
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<tr>
<td>Basic Foundation</td>
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<tr>
<td>Allowances</td>
<td></td>
<td>1,558,210,728</td>
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<tr>
<td>Less Local Share</td>
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<td>(454,486,958)</td>
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<td>Adjustments</td>
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<td>(2,441,341)</td>
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<td>Total Basic State Aid</td>
<td></td>
<td>1,101,282,429</td>
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<tr>
<td>Public Employees’ Insurance Matching</td>
<td>01200</td>
<td>242,714,967</td>
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<tr>
<td>Teachers’ Retirement System</td>
<td>01900</td>
<td>72,125,000</td>
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<tr>
<td>School Building Authority</td>
<td>45300</td>
<td>23,424,770</td>
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<tr>
<td>Retirement Systems –</td>
<td></td>
<td></td>
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<tr>
<td>Unfunded Liability</td>
<td>77500</td>
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<tr>
<td>Total</td>
<td></td>
<td>$1,783,510,166</td>
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</table>

### 45-State Board of Education –

#### Vocational Division

(WV Code Chapters 18 and 18A)

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
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<td>Unclassified</td>
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<td>Current Expenses</td>
<td>13000</td>
<td>882,131</td>
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<tr>
<td>Wood Products –</td>
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<tr>
<td>Forestry Vocational Program</td>
<td>14600</td>
<td>68,993</td>
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### Ch. 1] APPROPRIATIONS 2187

<table>
<thead>
<tr>
<th>Item</th>
<th>Fund</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Albert Yanni Vocational Program</td>
<td>14700</td>
<td>131,951</td>
</tr>
<tr>
<td>Vocational Aid</td>
<td>14800</td>
<td>22,440,602</td>
</tr>
<tr>
<td>Adult Basic Education</td>
<td>14900</td>
<td>4,591,896</td>
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<tr>
<td>Program Modernization</td>
<td>30500</td>
<td>884,313</td>
</tr>
<tr>
<td>High School Equivalency</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Diploma Testing (R)</td>
<td>72600</td>
<td>778,815</td>
</tr>
<tr>
<td>FFA Grant Awards</td>
<td>83900</td>
<td>11,496</td>
</tr>
<tr>
<td>Pre-Engineering Academy Program</td>
<td>84000</td>
<td>265,294</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>$31,599,764</td>
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</tbody>
</table>

Any unexpended balances remaining in the appropriations for GED Testing (fund 0390, appropriation 33900) and High School Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

### 46-State Board of Education –

*West Virginia Schools for the Deaf and the Blind*

(WV Code Chapters 18 and 18A)

**Fund 0320 FY 2018 Org 0403**

<table>
<thead>
<tr>
<th>Item</th>
<th>Fund</th>
<th>Amount</th>
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<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$11,304,805</td>
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<td>Unclassified</td>
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<td>110,000</td>
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<td>Current Expenses</td>
<td>13000</td>
<td>1,988,129</td>
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<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>85,000</td>
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<tr>
<td>Equipment</td>
<td>07000</td>
<td>70,000</td>
</tr>
<tr>
<td>Buildings (R)</td>
<td>25800</td>
<td>85,000</td>
</tr>
<tr>
<td>Capital Outlay and Maintenance (R)</td>
<td>75500</td>
<td>82,500</td>
</tr>
<tr>
<td>BRIM Premium</td>
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</tr>
<tr>
<td><strong>Total</strong></td>
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<td>$13,850,324</td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the appropriations for Buildings (fund 0320, appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at the close of the fiscal year 2017 are
DEPARTMENT OF EDUCATION AND THE ARTS

47-Department of Education and the Arts –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0294 FY 2018 Org 0431

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Personal Services and</td>
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<td>Employee Benefits</td>
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<tr>
<td>Unclassified</td>
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<td>35,000</td>
</tr>
<tr>
<td>Center for Professional</td>
<td></td>
<td></td>
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<tr>
<td>Development (R)</td>
<td>11500</td>
<td>1,490,833</td>
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<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>6,562</td>
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<tr>
<td>WV Humanities Council</td>
<td>16800</td>
<td>250,000</td>
</tr>
<tr>
<td>Benedum Professional Development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Collaborative (R)</td>
<td>42700</td>
<td>429,116</td>
</tr>
<tr>
<td>Governor’s Honors Academy (R)</td>
<td>47800</td>
<td>1,059,270</td>
</tr>
<tr>
<td>Educational Enhancements</td>
<td>69500</td>
<td>196,000</td>
</tr>
<tr>
<td>S.T.E.M. Education and Grant Program (R)</td>
<td>71900</td>
<td>490,286</td>
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<tr>
<td>Energy Express</td>
<td>86100</td>
<td>382,935</td>
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<tr>
<td>BRIM Premium</td>
<td>91300</td>
<td>4,870</td>
</tr>
<tr>
<td>Special Olympic Games</td>
<td>96600</td>
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</tr>
<tr>
<td>Total</td>
<td></td>
<td>$4,884,300</td>
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</tbody>
</table>

Any unexpended balances remaining in the appropriations for Center for Professional Development (fund 0294, appropriation 11500), Benedum Professional Development Collaborative (fund 0294, appropriation 42700), Governor’s Honors Academy (fund 0294, appropriation 47800), and S.T.E.M. Education and Grant Program (fund 0294, appropriation 71900) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception
of fund 0294, fiscal year 2017, appropriation 42700 ($66,416) which shall expire on June 30, 2017.

From the above appropriation for Educational Enhancements (fund 0294, appropriation 69500), $73,500 shall be used for the Clay Center and $122,500 for Reconnecting McDowell – Save the Children.

48-Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2018 Org 0432

<table>
<thead>
<tr>
<th>Description</th>
<th>Org 0432</th>
<th>FY 2018</th>
<th>2018 Org 0432</th>
</tr>
</thead>
<tbody>
<tr>
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<tr>
<td>Employee Benefits</td>
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<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>$605,585</td>
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</tr>
<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>1,000</td>
<td></td>
</tr>
<tr>
<td>Equipment</td>
<td>07000</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Unclassified (R)</td>
<td>09900</td>
<td>28,483</td>
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<tr>
<td>Buildings (R)</td>
<td>25800</td>
<td>1</td>
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</tr>
<tr>
<td>Other Assets</td>
<td>69000</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Land (R)</td>
<td>73000</td>
<td>1</td>
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<tr>
<td>Culture and History Programming</td>
<td>73200</td>
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<tr>
<td>Capital Outlay and</td>
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<tr>
<td>Maintenance (R)</td>
<td>75500</td>
<td>19,600</td>
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<td>Historical Highway</td>
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<tr>
<td>Marker Program</td>
<td>84400</td>
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<td>BRIM Premium</td>
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<td>Total</td>
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<td>$4,128,673</td>
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</table>

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), Buildings (fund 0293, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0293, appropriation 58900), Capital Improvements – Surplus (fund 0293, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation 67700), Land (fund 0293, appropriation 73000), and Capital Outlay and Maintenance (fund 0293, appropriation 75500) at the
close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

The Current Expense appropriation includes funding for the arts funds, department programming funds, grants, fairs and festivals and Camp Washington Carver and shall be expended only upon authorization of the Division of Culture and History and in accordance with the provisions of Chapter 5A, Article 3, and Chapter 12 of the Code.

49-Library Commission

(WV Code Chapter 10)

<table>
<thead>
<tr>
<th>Fund</th>
<th>FY 2018 Org</th>
<th>Appropriation Category</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>0296</td>
<td>0433</td>
<td>00100 Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$1,208,032</td>
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<tr>
<td>0300</td>
<td>0439</td>
<td>13000 Current Expenses</td>
<td>13000</td>
<td>137,674</td>
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<tr>
<td>0296</td>
<td>0433</td>
<td>06400 Repairs and Alterations</td>
<td>06400</td>
<td>6,500</td>
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<tr>
<td>0300</td>
<td>0439</td>
<td>18100 Services to Blind &amp; Handicapped</td>
<td>18100</td>
<td>161,717</td>
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<tr>
<td>0296</td>
<td>0433</td>
<td>91300 BRIM Premium</td>
<td>91300</td>
<td>16,734</td>
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<td></td>
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<td>Total</td>
<td></td>
<td>$1,530,657</td>
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50-Educational Broadcasting Authority

(WV Code Chapter 10)

<table>
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<tr>
<th>Fund</th>
<th>FY 2018 Org</th>
<th>Appropriation Category</th>
<th>Code</th>
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</thead>
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<tr>
<td>0300</td>
<td>0439</td>
<td>00100 Personal Services and Employee Benefits</td>
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<td>$3,245,141</td>
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<tr>
<td>0300</td>
<td>0439</td>
<td>13000 Current Expenses</td>
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<td>20,146</td>
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<tr>
<td>0300</td>
<td>0439</td>
<td>40700 Mountain Stage</td>
<td>40700</td>
<td>300,000</td>
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<tr>
<td>0300</td>
<td>0439</td>
<td>75500 Capital Outlay and Maintenance (R)</td>
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<tr>
<td>0300</td>
<td>0439</td>
<td>91300 BRIM Premium</td>
<td>91300</td>
<td>45,283</td>
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<td>$3,620,570</td>
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Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300,
appropriation 75500) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

51-State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 0310 FY 2018 Org 0932

| 1 | Personal Services and Employee Benefits ............... 00100 | $10,590,552 |
| 2 | Independent Living Services .......... 00900 | 429,418 |
| 3 | Current Expenses .......................... 13000 | 545,202 |
| 4 | Workshop Development ..................... 16300 | 1,817,427 |
| 5 | Supported Employment .......................... 16300 | 1,817,427 |
| 6 | Extended Services ......................... 20600 | 77,960 |
| 7 | Ron Yost Personal ........................... 40700 | 333,828 |
| 8 | Employment Attendant .......................... 59800 | 131,575 |
| 9 | Care Program ................................. 91300 | 72,396 |
| 10 | BRIM Premium ............................... 91300 | 72,396 |
| 11 | Total ............................................. | $13,998,358 |

From the above appropriation for Workshop Development (fund 0310, appropriation 16300), funds shall be used exclusively with the private nonprofit community rehabilitation program organizations known as work centers or sheltered workshops. The appropriation shall also be used to continue the support of the program, services, and individuals with disabilities currently in place at those organizations.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

52-Environmental Quality Board

(WV Code Chapter 20)
Fund 0270 FY 2018 Org 0311

1 Personal Services and
2 Employee Benefits .................. 00100 $ 72,067
3 Current Expenses ................... 13000 29,203
4 Repairs and Alterations .......... 06400 100
5 Equipment ............................ 07000 300
6 Other Assets ......................... 69000 400
7 BRIM Premium ....................... 91300 739
8 Total .................................. $ 102,809

53-Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2018 Org 0313

1 Personal Services and
2 Employee Benefits .................. 00100 $ 3,926,093
3 Water Resources Protection
4 and Management .................... 06800 566,284
5 Current Expenses ................... 13000 96,242
6 Repairs and Alterations .......... 06400 4,950
7 Unclassified ........................ 09900 25,049
8 Dam Safety ........................... 60700 210,959
9 West Virginia Stream
10 Partners Program ................... 63700 77,396
11 Meth Lab Cleanup ................. 65600 200,073
12 Other Assets ....................... 69000 1,000
13 WV Contributions
14 to River Commissions .......... 77600 148,485
15 Office of Water Resources
16 Non-Enforcement Activity ...... 85500 908,854
17 Total .................................. $ 6,165,385

18 A portion of the appropriations for Current Expense
19 (fund 0273, appropriation 13000) and Dam Safety (fund
20 0273, appropriation 60700) may be transferred to the special
21 revenue fund Dam Safety Rehabilitation Revolving Fund
(fund 3025) for the state deficient dams rehabilitation assistance program.

54-Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2018 Org 0325

<table>
<thead>
<tr>
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<th>Description</th>
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<td>13000</td>
<td>12,462</td>
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<td>3</td>
<td>Repairs and Alterations</td>
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<td>4</td>
<td>Equipment</td>
<td>07000</td>
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<td>5</td>
<td>Other Assets</td>
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<td>6</td>
<td>BRIM Premium</td>
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DEPARTMENT OF HEALTH AND HUMAN RESOURCES

55-Department of Health and Human Resources –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0400 FY 2018 Org 0501

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<td>3</td>
<td>Current Expenses</td>
<td>13000</td>
<td>48,833</td>
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<tr>
<td>4</td>
<td>Women’s Commission (R)</td>
<td>19100</td>
<td>0</td>
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<tr>
<td>5</td>
<td>Commission for the Deaf</td>
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</tr>
<tr>
<td>6</td>
<td>and Hard of Hearing</td>
<td>70400</td>
<td>215,479</td>
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<td>Total</td>
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Any unexpended balance remaining in the appropriation for the Women’s Commission (fund 0400, appropriation 19100) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.
<table>
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<tr>
<th>Item</th>
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<th>Fund</th>
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<td>7</td>
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<td>21000</td>
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<td>8</td>
<td>Safe Drinking Water Program (R)</td>
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<td>8,134,060</td>
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<tr>
<td>9</td>
<td>Women, Infants and Children</td>
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<td>11</td>
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<td>Statewide EMS</td>
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<td>15</td>
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<td>Vaccine for Children</td>
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<td>17</td>
<td>Tuberculosis Control</td>
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<td>18</td>
<td>Maternal and Child Health Clinics, Clinicians</td>
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<td>20</td>
<td>and Fees (R)</td>
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<td>25</td>
<td>Health Right Free Clinics</td>
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<td>26</td>
<td>Capital Outlay and</td>
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<tr>
<td>27</td>
<td>Maintenance (R)</td>
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<tr>
<td>28</td>
<td>Maternal Mortality Review</td>
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<td>29</td>
<td>Diabetes Education and Prevention</td>
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<tr>
<td>30</td>
<td>BRIM Premium</td>
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<td>31</td>
<td>State Trauma and</td>
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<td>32</td>
<td>Emergency Care System</td>
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<tr>
<td>33</td>
<td>Total</td>
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</tr>
</tbody>
</table>
Any unexpended balances remaining in the appropriations for Safe Drinking Water Program (fund 0407, appropriation 18700), Statewide EMS Program Support (fund 0407, appropriation 38300), Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500), Capital Outlay and Maintenance (fund 0407, appropriation 75500), Emergency Response Entities – Special Projects (fund 0407, appropriation 82200), Assistance to Primary Health Care Centers Community Health Foundation (fund 0407, appropriation 84500), and Tobacco Education Program (fund 0407, appropriation 90600) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018; Provided that on July 1, 2017, the following reappropriated funds and amounts are to be transferred to the Division of Human Services - Medical Services Trust Fund, (fund 5185): Fund 0407, fiscal year 2007, appropriation 84500, Assistance to Primary Health Care Centers Community Health Foundation, $400,000; fund 0407, fiscal year 2008, appropriation 84500, Assistance to Primary Health Care Centers Community Health Foundation, $840,000; fund 0407, fiscal year 2009, appropriation 84500, Assistance to Primary Health Care Centers Community Health Foundation, $675,000; fund 0407, fiscal year 2010, appropriation 84500 Assistance to Primary Health Care Centers - Community Health Foundation, $558,236.61; fund 0407, fiscal year 2008, appropriation 82200, Emergency Response Entities – Special Projects, $77,062; fund 0407, fiscal year 2009, appropriation 82200, Emergency Response Entities – Special Projects $81,176; fund 0407, fiscal year 2010, appropriation 82200, Emergency Response Entities – Special Projects $40,141.23; fund 0407, fiscal year 2011, appropriation 82200, Emergency Response Entities – Special Projects $93,192.02; fund 0407, fiscal year 2012, appropriation 82200, Emergency Response Entities – Special Projects $50,610.02; fund 0407, fiscal year 2013, appropriation 82200, Emergency Response Entities – Special Projects $67,152; fund 0407, fiscal year 2014,
appropriation 82200, Emergency Response Entities – Special Projects $31,969.73; fund 0407, fiscal year 2007, appropriation 75500, Capital Outlay and Maintenance, $91,095.33; fund 0407, fiscal year 2009, appropriation 75500, Capital Outlay and Maintenance, $128,084; fund 0407, fiscal year 2010, appropriation 75500, Capital Outlay and Maintenance, $518,934.53; fund 0407, fiscal year 2011, appropriation 75500, Capital Outlay and Maintenance, $2,125,000; fund 0407, fiscal year 2012, appropriation 75500, Capital Outlay and Maintenance, $2,125,000; and fund 0407, fiscal year 2013, appropriation 75500, Capital Outlay and Maintenance, $1,011,886.14.

From the above appropriation for Current Expenses (fund 0407, appropriation 13000), an amount not less than $100,000 is for the West Virginia Cancer Coalition; $50,000 shall be expended for the West Virginia Aids Coalition; $100,000 is for Adolescent Immunization Education; $73,065 is for informal dispute resolution relating to nursing home administrative appeals; and $50,000 is for Hospital Hospitality House of Huntington.

From the above appropriation for Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500) up to $400,000 may be transferred to the Breast and Cervical Cancer Diagnostic Treatment Fund (fund 5197) and $11,000 is for the Marshall County Health Department for dental services.

57-Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2018 Org 0506

<table>
<thead>
<tr>
<th>1</th>
<th>Personal Services and</th>
</tr>
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<tbody>
<tr>
<td>2</td>
<td>Employee Benefits................. 00100  $ 1,554,852</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses.................... 13000  12,463</td>
</tr>
<tr>
<td>4</td>
<td>Behavioral Health Program (R) .... 21900  64,415,611</td>
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<tr>
<td>5</td>
<td>Family Support Act.................. 22100  251,226</td>
</tr>
</tbody>
</table>
Institutional Facilities Operations (R) .........................  33500  100,067,434
Substance Abuse Continuum of Care (R) ..................  35400  5,000,000
Capital Outlay and Maintenance (R) ...............  75500  950,000
Renaissance Program .....................  80400  165,996
BRIM Premium..............................  91300  1,211,307
Total.........................................   $ 173,628,889

Any unexpended balances remaining in the appropriations for Behavioral Health Program (fund 0525, appropriation 21900), Institutional Facilities Operations (fund 0525, appropriation 33500), Substance Abuse Continuum of Care (fund 0525, appropriation 35400), Capital Outlay (fund 0525, appropriation 51100), Behavioral Health Program – Surplus (fund 0525, appropriation 63100), Institutional Facilities Operations – Surplus (fund 0525, appropriation 63200), Substance Abuse Continuum of Care – Surplus (fund 0525, appropriation 72200), and Capital Outlay and Maintenance (fund 0525, appropriation 75500) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: Provided, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: Provided, however, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

Included in the above appropriation for Behavioral Health Program (fund 0525, appropriation 21900) is $100,000 for the Healing Place of Huntington.
From the above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500), together with available funds from the Division of Health – Hospital Services Revenue Account (fund 5156, appropriation 33500), on July 1, 2017, the sum of $160,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (fund 1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.

The above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500) contains prior year salary increases due to the Hartley court order in the amount of $2,202,013 for William R. Sharpe Jr. Hospital, and $2,067,984 for Mildred Mitchel-Bateman Hospital.

From the above appropriation for Substance Abuse Continuum of Care (fund 0525, appropriation 35400), the funding will be consistent with the goal areas outlined in the Comprehensive Substance Abuse Strategic Action Plan.

Additional funds have been appropriated in fund 5156, fiscal year 2018, organization 0506, for the operation of the institutional facilities. The secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the Institutional Facilities Operations appropriation to facilitate cost effective and cost saving services at the community level.

58-Division of Health –

West Virginia Drinking Water Treatment

(WV Code Chapter 16)

Fund 0561 FY 2018 Org 0506

1 West Virginia Drinking Water Treatment
2 Revolving Fund-Transfer ........ 68900 $ 647,500
The above appropriation for Drinking Water Treatment Revolving Fund – Transfer shall be transferred to the West Virginia Drinking Water Treatment Revolving Fund or appropriate bank depository and the Drinking Water Treatment Revolving – Administrative Expense Fund as provided by Chapter 16 of the Code.

59-Human Rights Commission

(WV Code Chapter 5)

<table>
<thead>
<tr>
<th>Fund 0416 FY 2018 Org 0510</th>
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<tbody>
<tr>
<td>1 Personal Services and</td>
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<td>2 Employee Benefits .......... 00100 $ 1,002,668</td>
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<td>3 Unclassified ............... 09900 4,024</td>
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<td>4 Current Expenses .......... 13000 330,029</td>
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<tr>
<td>5 BRIM Premium ............... 91300 10,056</td>
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<td>6 Total ...................... $ 1,346,777</td>
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60-Division of Human Services

(WV Code Chapters 9, 48 and 49)

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<td>2 Employee Benefits .......... 00100 $ 43,080,824</td>
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<td>4 Current Expenses .......... 13000 11,315,095</td>
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<tr>
<td>5 Child Care Development .... 14400 9,079,268</td>
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<td>6 Medical Services Contracts and</td>
</tr>
<tr>
<td>7 Office of Managed Care ...... 18300 1,835,469</td>
</tr>
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<td>8 Medical Services .......... 18900 448,532,081</td>
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<td>9 Social Services .......... 19500 145,947,791</td>
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<td>10 Family Preservation Program ... 19600 1,565,000</td>
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<td>11 Family Resource Networks .. 27400 1,762,464</td>
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<td>12 Domestic Violence</td>
</tr>
<tr>
<td>13 Legal Services Fund ........ 38400 400,000</td>
</tr>
<tr>
<td>14 James “Tiger” Morton</td>
</tr>
<tr>
<td>15 Catastrophic Illness Fund .. 45500 101,005</td>
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<td>40</td>
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<td>41</td>
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</table>

Any unexpended balances remaining in the appropriations for Capital Outlay and Maintenance (fund 0403, appropriation 75500) and Indigent Burials (fund 0403, appropriation 85100) at the close of the fiscal year
2017 are hereby reappropriated for expenditure during the fiscal year 2018.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: Provided, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: Provided, however, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

The secretary shall have authority to expend funds for the educational costs of those children residing in out-of-state placements, excluding the costs of special education programs.

Included in the above appropriation for Social Services (fund 0403, appropriation 19500) is funding for continuing education requirements relating to the practice of social work.

The above appropriation for Domestic Violence Legal Services Fund (fund 0403, appropriation 38400) shall be transferred to the Domestic Violence Legal Services Fund (fund 5455).

The above appropriation for James “Tiger” Morton Catastrophic Illness Fund (fund 0403, appropriation 45500) shall be transferred to the James “Tiger” Morton Catastrophic Illness Fund (fund 5454) as provided by Article 5Q, Chapter 16 of the Code.

The above appropriation for WV Works Separate State Program (fund 0403, appropriation 69800), shall be transferred to the WV Works Separate State College Program Fund (fund 5467), and the WV Works Separate State Two-Parent Program Fund (fund 5468) as determined
by the secretary of the Department of Health and Human Resources.

From the above appropriation for Child Support Enforcement (fund 0403, appropriation 70500) an amount not to exceed $300,000 may be transferred to a local banking depository to be utilized to offset funds determined to be uncollectible.

From the above appropriation for the Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation 75000), 50% of the total shall be divided equally and distributed among the fourteen (14) licensed programs and the West Virginia Coalition Against Domestic Violence (WVCADV). The balance remaining in the appropriation for Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation 75000), shall be distributed according to the formula established by the Family Protection Services Board.

The above appropriation for Children’s Trust Fund – Transfer (fund 0403, appropriation 95100) shall be transferred to the Children’s Trust Fund (fund 5469, org 0511).

DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY

61-Department of Military Affairs and Public Safety –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0430 FY 2018 Org 0601

1 Personal Services and
2 Employee Benefits.................... 00100 $ 711,738
3 Unclassified (R)........................ 09900 21,719
4 Current Expenses...................... 13000 66,492
Ch. 1] APPROPRIATIONS

5 Repairs and Alterations................. 06400  6,000
6 Equipment.................................. 07000  3,000
7 Fusion Center (R)....................... 46900  534,332
8 Other Assets............................ 69000  3,000
9 Directed Transfer....................... 70000  32,000
10 BRIM Premium........................... 91300  11,938
11 WV Fire and EMS
12 Survivor Benefit (R)................. 93900  200,000
13 Homeland State Security
14 Administrative Agency (R) ....... 95300  531,683
15 Total................................... $ 2,121,902

Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, appropriation 09900), Fusion Center (fund 0430, appropriation 46900), Substance Abuse Program – Surplus (fund 0430, appropriation 69600), Justice Reinvestment Training – Surplus (fund 0430, appropriation 69900), WV Fire and EMS Survivor Benefit (fund 0430, appropriation 93900), and Homeland State Security Administrative Agency (fund 0430, appropriation 95300) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0430, fiscal year 2017, appropriation 93900 ($50,000) which shall expire on June 30, 2017.

The above appropriation for Directed Transfer (fund 0430, appropriation 70000) shall be transferred to the Law-Enforcement, Safety and Emergency Worker Funeral Expense Payment Fund (fund 6003).

62-Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 0433 FY 2018 Org 0603

1 Unclassified (R)......................... 09900  $ 106,798
2 College Education Fund............. 23200  4,000,000
3 Civil Air Patrol............................ 23400 249,219
4 Mountaineer ChalleNGe Academy.... 70900 1,500,000
5 Armory Board Transfer ............... 70015 2,317,555
6 Military Authority (R) ................. 74800 5,857,390
7 Total........................................ $ 14,030,962

8 Any unexpended balance remaining in the
9 appropriations for Unclassified (fund 0433, appropriation
10 09900) and Military Authority (fund 0433, appropriation
11 74800) at the close of the fiscal year 2017 is hereby
12 reappropriated for expenditure during the fiscal year 2018.

13 From the above appropriations an amount approved by
14 the Adjutant General and the secretary of Military Affairs
15 and Public Safety may be transferred to the State Armory
16 Board for operation and maintenance of National Guard
17 Armories.

18 The adjutant general shall have the authority to transfer
19 between appropriations.

20 From the above appropriation and other state and
21 federal funding, the Adjutant General shall provide an
22 amount not less than $4,500,000 to the Mountaineer
23 ChalleNGe Academy to meet anticipated program demand.

63-Adjutant General –

Military Fund

(WV Code Chapter 15)

Fund 0605 FY 2018 Org 0603

Personal Services and
Employee Benefits............... 00100 $ 100,000
Current Expenses ..................... 13000 57,775
Total........................................ $ 157,775

64-West Virginia Parole Board

(WV Code Chapter 62)
65-Division of Homeland Security and Emergency Management
(WV Code Chapter 15)

Fund 0440 FY 2018 Org 0605

<table>
<thead>
<tr>
<th>Item</th>
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<th>Amount</th>
</tr>
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<tr>
<td>Personal Services and Employee Benefits</td>
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<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>294,559</td>
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<tr>
<td>Salaries of Members of West Virginia Parole Board</td>
<td>22700</td>
<td>593,029</td>
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<tr>
<td>BRIM Premium</td>
<td>91300</td>
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</tbody>
</table>

The above appropriation for Salaries of Members of West Virginia Parole Board (fund 0440, appropriation 22700) includes funding for salary, annual increment (as provided for in W.Va. Code §5-5-1), and related employee benefits of board members.

Fund 0443 FY 2018 Org 0606

<table>
<thead>
<tr>
<th>Item</th>
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<tr>
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<td>00100</td>
<td>$1,006,489</td>
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<tr>
<td>Unclassified</td>
<td>09900</td>
<td>26,342</td>
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<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>51,674</td>
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<td>Repairs and Alterations</td>
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<td>600</td>
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<td>Radiological Emergency Preparedness</td>
<td>55400</td>
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<td>Federal Funds/Grant Match (R)</td>
<td>74900</td>
<td>660,991</td>
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<tr>
<td>Mine and Industrial Accident Rapid Response Call Center</td>
<td>78100</td>
<td>450,539</td>
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<tr>
<td>Early Warning Flood System (R)</td>
<td>87700</td>
<td>466,845</td>
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<tr>
<td>BRIM Premium</td>
<td>91300</td>
<td>20,786</td>
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<tr>
<td>WVU Charleston</td>
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<tr>
<td>Poison Control Hotline</td>
<td>94400</td>
<td>712,942</td>
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Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match (fund 0443, appropriation 74900), Early Warning Flood System (fund 0443, appropriation 87700), and Disaster Mitigation (fund 0443, appropriation 95200) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0443, fiscal year 2017, appropriation 87700 ($9,500) which shall expire on June 30, 2017.

66-Division of Corrections –

Central Office

(WV Code Chapters 25, 28, 49 and 62)

Fund 0446 FY 2018 Org 0608

| 1 | Personal Services and Employee Benefits .................. 00100 | $ 593,431 |
| 2 | Current Expenses ............................................ 13000 | 1,800 |
| 4 | Total ......................................................... | $ 595,231 |

67-Division of Corrections –

Correctional Units

(WV Code Chapters 25, 28, 49 and 62)

Fund 0450 FY 2018 Org 0608

<p>| 1 | Employee Benefits ......................................... 01000 | $ 1,258,136 |
| 2 | Children’s Protection Act (R) .................. 09000 | 838,437 |
| 3 | Unclassified (R) ......................................... 09900 | 1,578,800 |
| 4 | Current Expenses (R) .................................... 13000 | 21,151,011 |
| 5 | Facilities Planning and Administration (R) .......... 38600 | 1,274,200 |
| 7 | Charleston Correctional Center ...................... 45600 | 2,585,251 |
| 8 | Beckley Correctional Center ......................... 49000 | 1,780,425 |
| 9 | Huntington Work Release Center ..................... 49500 | 965,100 |
| 10 | Anthony Correctional Center ......................... 50400 | 5,009,807 |</p>
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<tr>
<th>Line</th>
<th>Location</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>11</td>
<td>Huttonsville Correctional Center</td>
<td>51400</td>
<td>19,760,309</td>
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<tr>
<td>12</td>
<td>Northern Correctional Center</td>
<td>53400</td>
<td>6,738,979</td>
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<tr>
<td>13</td>
<td>Inmate Medical Expenses (R)</td>
<td>53500</td>
<td>21,226,064</td>
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<tr>
<td>14</td>
<td>Pruntytown Correctional Center</td>
<td>54300</td>
<td>6,939,316</td>
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<td>15</td>
<td>Corrections Academy</td>
<td>56900</td>
<td>1,556,666</td>
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<td>16</td>
<td>Information Technology Services</td>
<td>59901</td>
<td>1,616,491</td>
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<td>17</td>
<td>Martinsburg Correctional Center</td>
<td>66300</td>
<td>3,515,195</td>
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<td>18</td>
<td>Parole Services</td>
<td>68600</td>
<td>4,945,361</td>
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<td>19</td>
<td>Special Services</td>
<td>68700</td>
<td>6,654,557</td>
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<td>20</td>
<td>Investigative Services</td>
<td>71600</td>
<td>2,980,734</td>
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<td>21</td>
<td>Capital Outlay and Maintenance (R)</td>
<td>75500</td>
<td>2,000,000</td>
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<td>22</td>
<td>Salem Correctional Center</td>
<td>77400</td>
<td>9,530,531</td>
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<td>23</td>
<td>McDowell County</td>
<td></td>
<td></td>
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<tr>
<td>24</td>
<td>Correctional Center</td>
<td>79000</td>
<td>2,542,590</td>
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<tr>
<td>25</td>
<td>Stevens Correctional Center</td>
<td>79100</td>
<td>7,863,195</td>
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<td>26</td>
<td>Parkersburg Correctional Center</td>
<td>82800</td>
<td>2,501,777</td>
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<td>27</td>
<td>St. Mary’s Correctional Center</td>
<td>88100</td>
<td>11,958,071</td>
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<td>28</td>
<td>Denmar Correctional Center</td>
<td>88200</td>
<td>4,334,308</td>
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<td>29</td>
<td>Ohio County Correctional Center</td>
<td>88300</td>
<td>1,753,224</td>
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<td>30</td>
<td>Mt. Olive Correctional Complex</td>
<td>88800</td>
<td>18,789,864</td>
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<td>31</td>
<td>Lakin Correctional Center</td>
<td>89600</td>
<td>8,658,905</td>
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<td>32</td>
<td>BRIM Premium</td>
<td>91300</td>
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<td>33</td>
<td>Total</td>
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<td>$ 184,667,074</td>
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</table>

Any unexpended balances remaining in the appropriations for Children’s Protection Act (fund 0450, appropriation 09000), Unclassified – Surplus (fund 0450, appropriation 09700), Unclassified (fund 0450, appropriation 09900), Current Expenses (fund 0450, appropriation 13000), Facilities Planning and Administration (fund 0450, appropriation 38600), Inmate Medical Expenses (fund 0450, appropriation 53500), Capital Improvements – Surplus (fund 0450, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0450, appropriation 67700), Capital Outlay and Maintenance (fund 0450, appropriation 75500), Security System Improvements – Surplus (fund 0450, appropriation 75501), and Operating Expenses – Surplus (fund 0450, appropriation 77900) at the close of the fiscal year 2017 are
hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0450, fiscal year 2017, appropriation 09000 ($100,000) which shall expire on June 30, 2017.

The Commissioner of Corrections shall have the authority to transfer between appropriations to the individual correctional units above and may transfer funds from the individual correctional units to Current Expenses (fund 0450, appropriation 13000) or Inmate Medical Expenses (fund 0450, appropriation 53500).

From the above appropriation to Unclassified (fund 0450, appropriation 09900), on July 1, 2017, the sum of $300,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (fund 1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.

From the above appropriation to Current Expenses (fund 0450, appropriation 13000) payment shall be made to house Division of Corrections inmates in federal, county, and/or regional jails.

Any realized savings from Energy Savings Contract may be transferred to Facilities Planning and Administration (fund 0450, appropriation 38600).

68-West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2018 Org 0612

1 Personal Services and
2 Employee Benefits............... 00100 $ 56,281,783
3 Children’s Protection Act ............ 09000 948,101
4 Current Expenses.................... 13000 10,309,769
5 Repairs and Alterations.............. 06400 450,523
6 Barracks Lease Payments .......... 55600 237,898
7 Communications and
8 Other Equipment (R) ...............  55800  70,968
9 Trooper Retirement Fund..........  60500  4,565,197
10 Handgun Administration Expense ...  74700  67,179
11 Capital Outlay and
12 Maintenance (R)..................  75500  250,000
13 Retirement Systems –
14 Unfunded Liability ..............  77500  24,675,000
15 Automated Fingerprint
16 Identification System............  89800  723,064
17 BRIM Premium.....................  91300  5,368,150
18 Total.................................. $ 103,947,632

Any unexpended balances remaining in the
appropriations for Communications and Other Equipment
(fund 0453, appropriation 55800), and Capital Outlay and
Maintenance (fund 0453, appropriation 75500) at the close
of the fiscal year 2017 are hereby reappropriated for
expenditure during the fiscal year 2018.

From the above appropriation for Personal Services and
Employee Benefits (fund 0453, appropriation 00100), an
amount not less than $25,000 shall be expended to offset the
costs associated with providing police services for the West
Virginia State Fair.

69-Fire Commission
(WV Code Chapter 29)

Fund 0436 FY 2018 Org 0619

1 Current Expenses.....................  13000  $ 64,021

70-Division of Justice and Community Services
(WV Code Chapter 15)

Fund 0546 FY 2018 Org 0620
Personal Services and Employee Benefits .......................... 00100 $ 531,051
Current Expenses ........................................ 13000 132,696
Repairs and Alterations............................... 06400 1,804
Child Advocacy Centers (R).............. 45800 1,701,671
Community Corrections (R) ............ 56100 6,905,614
Statistical Analysis Program............ 59700 46,381
Sexual Assault Forensic Examination Commission........ 71400 76,231
Qualitative Analysis and Training for Youth Services (R)........ 76200 332,018
Law Enforcement Professional Standards................. 83800 154,471
BRIM Premium........................................ 91300 1,788
Total............................................... $ 9,883,725

Any unexpended balances remaining in the appropriations for Child Advocacy Centers (fund 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100), and Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0546, fiscal year 2017, appropriation 56100 ($172,000), and fund 0546, fiscal year 2017, appropriation 76200 ($29,878) which shall expire on June 30, 2017.

From the above appropriation for Child Advocacy Centers (fund 0546, appropriation 45800), the division may retain an amount not to exceed four percent of the appropriation for administrative purposes.

71-Division of Juvenile Services
(WV Code Chapter 49)

Fund 0570 FY 2018 Org 0621

Statewide Reporting Centers ........... 26200 $ 6,279,447
Robert L. Shell Juvenile Center ..... 26700 1,956,950
<table>
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<tr>
<th></th>
<th>Appropriations</th>
<th></th>
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<tbody>
<tr>
<td>3</td>
<td>Resident Medical Expenses (R)</td>
<td>53501</td>
<td>3,604,999</td>
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<tr>
<td>4</td>
<td>Central Office</td>
<td>70100</td>
<td>2,307,517</td>
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<tr>
<td>5</td>
<td>Capital Outlay and Maintenance (R)</td>
<td>75500</td>
<td>250,000</td>
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<td>6</td>
<td>Gene Spadaro Juvenile Center</td>
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<td>2,128,385</td>
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<tr>
<td>7</td>
<td>BRIM Premium</td>
<td>91300</td>
<td>108,380</td>
</tr>
<tr>
<td>8</td>
<td>Kenneth Honey Rubenstein Juvenile Center</td>
<td>98000</td>
<td>4,926,863</td>
</tr>
<tr>
<td>9</td>
<td>Vicki Douglas Juvenile Center</td>
<td>98100</td>
<td>1,870,388</td>
</tr>
<tr>
<td>10</td>
<td>Northern Regional Juvenile Center</td>
<td>98200</td>
<td>2,876,302</td>
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<tr>
<td>11</td>
<td>Lorrie Yeager Jr. Juvenile Center</td>
<td>98300</td>
<td>1,909,246</td>
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<tr>
<td>12</td>
<td>Sam Perdue Juvenile Center</td>
<td>98400</td>
<td>2,003,196</td>
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<td>13</td>
<td>Tiger Morton Center</td>
<td>98500</td>
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<td>14</td>
<td>Donald R. Kuhn Juvenile Center</td>
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<td>4,057,994</td>
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<td>15</td>
<td>J.M. “Chick” Buckbee</td>
<td>98700</td>
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</tr>
<tr>
<td>16</td>
<td>Total</td>
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<td>$38,411,725</td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the appropriations for Resident Medical Expenses (fund 0570, appropriation 53501), Capital Outlay and Maintenance (fund 0570, appropriation 75500), and Kenneth Honey Rubenstein Juvenile Center (fund 0570, appropriation 98000) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

From the above appropriations, on July 1, 2017, the sum of $50,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (fund 1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.

The Director of Juvenile Services shall have the authority to transfer between appropriations to the individual juvenile centers above and may transfer funds from the individual juvenile centers to Resident Medical Expenses (fund 0570, appropriation 53501).

72-Division of Protective Services
(WV Code Chapter 5F)

Fund 0585 FY 2018 Org 0622

1  Personal Services and  
2   Employee Benefits............... 00100  $ 2,772,420  
3   Unclassified (R).................... 09900  21,991  
4   Current Expenses.................. 13000  139,232  
5   Repairs and Alterations.......... 06400  8,500  
6   Equipment (R)...................... 07000  64,171  
7   BRIM Premium....................... 91300  11,426  
8   Total.................................. $ 3,017,740  

9  Any unexpended balances remaining in the  
10  appropriations for Equipment (fund 0585, appropriation  
11  07000), and Unclassified (fund 0585, appropriation 09900)  
12  at the close of the fiscal year 2017 are hereby reappropriated  
13  for expenditure during the fiscal year 2018.

DEPARTMENT OF REVENUE

73-Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2018 Org 0701

1  Personal Services and  
2   Employee Benefits............... 00100  $ 486,146  
3   Unclassified ....................... 09900  5,954  
4   Current Expenses.................. 13000  80,780  
5   Repairs and Alterations.......... 06400  1,262  
6   Equipment........................... 07000  8,000  
7   Other Assets......................... 69000  500  
8   State Road fund – Transfer ...... 70017  0  
9   Total.................................. $ 582,642  

10 Any unexpended balance remaining in the appropriation  
11  for Unclassified – Total (fund 0465, appropriation 09600)  
12  at the close of the fiscal year 2017 is hereby reappropriated  
13  for expenditure during the fiscal year 2018.
### 74-Tax Division

(WV Code Chapter 11)

**Fund 0470 FY 2018 Org 0702**

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
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<tr>
<td>Personal Services and Employee Benefits</td>
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<td>Current Expenses (R)</td>
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<td>Repairs and Alterations</td>
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<tr>
<td>Equipment</td>
<td>07000</td>
<td>50,000</td>
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<tr>
<td>Tax Technology Upgrade</td>
<td>09400</td>
<td>2,700,000</td>
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<td>Multi State Tax Commission</td>
<td>65300</td>
<td>77,958</td>
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<tr>
<td>Other Assets</td>
<td>69000</td>
<td>10,000</td>
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<tr>
<td>BRIM Premium</td>
<td>91300</td>
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<td><strong>Total</strong></td>
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<td><strong>$24,598,116</strong></td>
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</table>

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0470, appropriation 00100), Unclassified (fund 0470, appropriation 09900), and Current Expenses (fund 0470, appropriation 13000) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

### 75-State Budget Office

(WV Code Chapter 11B)

**Fund 0595 FY 2018 Org 0703**

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<td>449</td>
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Any unexpended balance remaining in the appropriation for Unclassified (fund 0595, appropriation 09900) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.
### 76-West Virginia Office of Tax Appeals
(WV Code Chapter 11)

Fund 0593 FY 2018 Org 0709

<table>
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<td>Personal Services and</td>
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<td>Employee Benefits</td>
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<td>3</td>
<td>Current Expenses (R)</td>
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<td>$92,572</td>
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<td>Unclassified</td>
<td>09900</td>
<td>$5,255</td>
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<td>5</td>
<td>BRIM Premium</td>
<td>91300</td>
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Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

### 77-Division of Professional and Occupational Licenses –

**State Athletic Commission**
(WV Code Chapter 29)

Fund 0523 FY 2018 Org 0933

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and</td>
<td>00100</td>
<td>$7,200</td>
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<tr>
<td>2</td>
<td>Employee Benefits</td>
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<td>3</td>
<td>Current Expenses</td>
<td>13000</td>
<td>$29,611</td>
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<td>4</td>
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<td>$36,811</td>
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</table>

### DEPARTMENT OF TRANSPORTATION

#### 78-State Rail Authority
(WV Code Chapter 29)

Fund 0506 FY 2018 Org 0804

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and</td>
<td>00100</td>
<td>$314,113</td>
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<td>2</td>
<td>Employee Benefits</td>
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<tr>
<td>3</td>
<td>Current Expenses</td>
<td>13000</td>
<td>$287,332</td>
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</table>


<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Other Assets (R)</td>
<td>69000</td>
<td>1,303,277</td>
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<tr>
<td>BRIM Premium</td>
<td>91300</td>
<td>188,356</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$ 2,093,078</strong></td>
</tr>
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</table>

Any unexpended balance remaining in the appropriation Other Assets (fund 0506, appropriation 69000) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0506, fiscal year 2017, appropriation 69000 ($32,483) which shall expire on June 30, 2017.

79-Division of Public Transit

(WV Code Chapter 17)

Fund **0510 FY 2018 Org 0805**

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Equipment (R)</td>
<td>07000</td>
<td>$ 384,710</td>
</tr>
<tr>
<td>Current Expenses (R)</td>
<td>13000</td>
<td>$ 1,878,279</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$ 2,262,989</strong></td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the appropriations for Equipment (fund 0510, appropriation 07000), Current Expenses (fund 0510, appropriation 13000), Buildings (fund 0510, appropriation 25800), and Other Assets (fund 0510, appropriation 69000) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0510, fiscal year 2017, appropriation 07000 ($22,203), fund 0510, fiscal year 2017, appropriation 25800 ($5,281), and fund 0510, fiscal year 2017, appropriation 69000 ($5,000) which shall expire on June 30, 2017.

80-Aeronautics Commission

(WV Code Chapter 29)

Fund **0582 FY 2018 Org 0807**

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and</td>
<td>00100</td>
<td>$ 166,719</td>
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</table>
### DEPARTMENT OF VETERANS’ ASSISTANCE

#### 81-Department of Veterans’ Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2018 Org 0613

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$1,807,393</td>
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<tr>
<td>Unclassified</td>
<td>09900</td>
<td>20,000</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>137,189</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>5,000</td>
</tr>
<tr>
<td>Veterans’ Field Offices</td>
<td>22800</td>
<td>248,345</td>
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<tr>
<td>Veterans’ Nursing Home (R)</td>
<td>28600</td>
<td>5,527,826</td>
</tr>
<tr>
<td>Veterans’ Toll Free Assistance Line</td>
<td>32800</td>
<td>2,015</td>
</tr>
<tr>
<td>Veterans’ Reeducation</td>
<td>32900</td>
<td>29,502</td>
</tr>
<tr>
<td>Veterans’ Grant Program (R)</td>
<td>34200</td>
<td>30,741</td>
</tr>
<tr>
<td>Veterans’ Grave Markers</td>
<td>47300</td>
<td>10,254</td>
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<tr>
<td>Veterans’ Transportation</td>
<td>48500</td>
<td>625,000</td>
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<tr>
<td>Veterans Outreach Programs</td>
<td>61700</td>
<td>160,001</td>
</tr>
<tr>
<td>Memorial Day Patriotic Exercise</td>
<td>69700</td>
<td>20,000</td>
</tr>
<tr>
<td>Veterans Cemetery</td>
<td>80800</td>
<td>375,428</td>
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<tr>
<td>BRIM Premium</td>
<td>91300</td>
<td>23,860</td>
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<td><strong>Total</strong></td>
<td></td>
<td><strong>$ 9,022,554</strong></td>
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</table>

### Appropriations

Any unexpended balances remaining in the appropriations for Unclassified (fund 0582, appropriation 09900) and Current Expenses (fund 0582, appropriation 13000) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.
appropriation 28600), Veterans’ Reeducation Assistance (fund 0456, appropriation 32900), Veterans’ Grant Program (fund 0456, appropriation 34200), Veterans’ Bonus – Surplus (fund 0456, appropriation 34400), and Educational Opportunities for Children of Deceased Veterans (fund 0456, appropriation 85400) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0456, fiscal year 2017, appropriation 28600 ($8,794), fund 0456, fiscal year 2017, appropriation 32900 ($1,702), and fund 0456, fiscal year 2017, appropriation 34200 ($29,000) which shall expire on June 30, 2017.

82-Department of Veterans’ Assistance –

Veterans’ Home

(WV Code Chapter 9A)

Fund 0460 FY 2018 Org 0618

<table>
<thead>
<tr>
<th>Description</th>
<th>Org 0618</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$1,093,492</td>
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<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>44,576</td>
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<td>Total</td>
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<td>$1,138,068</td>
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BUREAU OF SENIOR SERVICES

83-Bureau of Senior Services

(WV Code Chapter 29)

Fund 0420 FY 2018 Org 0508

<table>
<thead>
<tr>
<th>Description</th>
<th>Org 0508</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transfer to Division of Human Services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>for Health Care</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and Title XIX Waiver</td>
<td></td>
<td></td>
</tr>
<tr>
<td>for Senior Citizens</td>
<td>53900</td>
<td>$21,583,766</td>
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</tbody>
</table>

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (fund 0420, appropriation 53900) along
The above appropriation is in addition to funding provided in fund 5405 for this program.

WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION

84-West Virginia Council for Community and Technical College Education –

Control Account

(WV Code Chapter 18B)

Fund 0596 FY 2018 Org 0420

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Appropriation</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>West Virginia Council for Community and Technical Education (R)</td>
<td>39200</td>
<td>$ 723,410</td>
</tr>
<tr>
<td>2</td>
<td>Transit Training Partnership</td>
<td>78300</td>
<td>34,293</td>
</tr>
<tr>
<td>3</td>
<td>Community College</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Workforce Development (R)</td>
<td>87800</td>
<td>784,901</td>
</tr>
<tr>
<td>5</td>
<td>College Transition Program</td>
<td>88700</td>
<td>278,222</td>
</tr>
<tr>
<td>6</td>
<td>West Virginia Advance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Workforce Development (R)</td>
<td>89300</td>
<td>3,116,749</td>
</tr>
<tr>
<td>8</td>
<td>Technical Program</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Development (R)</td>
<td>89400</td>
<td>1,800,735</td>
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<tr>
<td>10</td>
<td>Total</td>
<td>89400</td>
<td>$ 6,738,310</td>
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</tbody>
</table>

Any unexpended balances remaining in the appropriations for West Virginia Council for Community and Technical Education (fund 0596, appropriation 39200), Capital Improvements – Surplus (fund 0596, appropriation 66100), Community College Workforce Development (fund 0596, appropriation 87800), West Virginia Advance Workforce Development (fund 0596, appropriation 89300), and Technical Program Development (fund 0596, appropriation 89400) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of
fund 0596, fiscal year 2017, appropriation 39200 ($14,000),
fund 0596, fiscal year 2017, appropriation 89300 ($69,244), and
fund 0596, fiscal year 2017, appropriation 89400 ($45,964)
which shall expire on June 30, 2017.

From the above appropriation for the Community
College Workforce Development (fund 0596, appropriation
87800), $200,000 shall be expended on the Mine Training
Program in Southern West Virginia.

Included in the above appropriation for West Virginia
Advance Workforce Development (fund 0596, appropriation
89300) is $200,000 to be used exclusively for
advanced manufacturing and energy industry specific
training programs.

85-Mountwest Community and Technical College
(WV Code Chapter 18B)
Fund 0599 FY 2018 Org 0444

1 Mountwest Community
   and Technical College ............ 48700 $ 5,314,947

86-New River Community and Technical College
(WV Code Chapter 18B)
Fund 0600 FY 2018 Org 0445

1 New River Community
   and Technical College ............ 35800 $ 5,247,765

87-Pierpont Community and Technical College
(WV Code Chapter 18B)
Fund 0597 FY 2018 Org 0446

Pierpont Community
   and Technical College ............ 93000 $ 6,989,036
88-Blue Ridge Community and Technical College
(WV Code Chapter 18B)
Fund 0601 FY 2018 Org 0447

1 Blue Ridge Community
   and Technical College ............ 88500 $ 4,880,509

89-West Virginia University at Parkersburg
(WV Code Chapter 18B)
Fund 0351 FY 2018 Org 0464

1 West Virginia
   University – Parkersburg ....... 47100 $ 9,086,528

90-Southern West Virginia Community and Technical College
(WV Code Chapter 18B)
Fund 0380 FY 2018 Org 0487

1 Southern West Virginia Community
   and Technical College ............ 44600 $ 7,626,471

91-West Virginia Northern Community and Technical College
(WV Code Chapter 18B)
Fund 0383 FY 2018 Org 0489

1 West Virginia Northern Community
   and Technical College ............ 44700 $ 6,583,128

92-Eastern West Virginia Community and Technical College
(WV Code Chapter 18B)
Fund 0587 FY 2018 Org 0492

1 Eastern West Virginia Community
   and Technical College ............ 41200 $ 1,751,421
### 93-BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2018 Org 0493

| 1 | BridgeValley Community and Technical College ............. | 71700 | $ 7,158,055 |

### HIGHER EDUCATION POLICY COMMISSION

94-Higher Education Policy Commission –

Administration –

Control Account

(WV Code Chapter 18B)

Fund 0589 FY 2018 Org 0441

| 1 | Personal Services and | 00100 | $ 2,471,913 |
| 2 | Employee Benefits........... | 13000 | 13,212 |
| 3 | Current Expenses.............. | 16400 | 39,019,864 |
| 4 | Higher Education Grant Program .. | 16500 | 1,224,564 |
| 5 | Tuition Contract Program (R)....... | 16700 | 328,349 |
| 6 | Underwood-Smith Scholarship Program-Student Awards ....... | 38600 | 16,651 |
| 7 | Facilities Planning and Administration (R)............... | 80000 | 18,500,000 |
| 8 | PROMISE Scholarship – Transfer. | 86700 | 5,007,764 |
| 9 | HEAPS Grant Program (R).......... | 91300 | 16,651 |
| 10 | BRIM Premium...................... | $ 68,332,309 |

Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0589, appropriation 09700), Tuition Contract Program (fund 0589, appropriation 16500), Capital Improvements – Surplus (fund 0589, appropriation 66100), Capital Outlay and Maintenance (fund 0589, appropriation 75500), and HEAPS Grant Program (fund 0589, appropriation 86700) at
the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0589, fiscal year 2017, appropriation 16500 ($24,991) which shall expire on June 30, 2017.

The above appropriation for Facilities Planning and Administration (fund 0589, appropriation 38600) is for operational expenses of the West Virginia Education, Research and Technology Park between construction and full occupancy.

The above appropriation for Higher Education Grant Program (fund 0589, appropriation 16400) shall be transferred to the Higher Education Grant Fund (fund 4933, org 0441) established by W.Va. Code §18C-5-3.

The above appropriation for Underwood-Smith Scholarship Program-Student Awards (fund 0589, appropriation 16700) shall be transferred to the Underwood-Smith Teacher Scholarship and Loan Assistance Fund (fund 4922, org 0441) established by W.Va. Code §18C-4-1.

The above appropriation for PROMISE Scholarship – Transfer (fund 0589, appropriation 80000) shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

95-Higher Education Policy Commission –

Administration -

West Virginia Network for Educational Telecomputing (WVNET)

(WV Code Chapter 18B9)

Fund 0551 FY 2018 Org 0495

1 WVNET ................................. 16900 $ 1,578,941
96-West Virginia University –

School of Medicine

Medical School Fund

(WV Code Chapter 18B)

Fund 0343 FY 2018 Org 0463

1. WVU School of Health Science –
   2. Eastern Division .................. 05600 $ 2,093,146
3. WVU – School of Health Sciences 17400 14,443,996
4. WVU – School of Health Sciences –
   5. Charleston Division ............... 17500 2,152,767
6. Rural Health Outreach Programs ... 37700 158,372
7. West Virginia University
8. School of Medicine
9. BRIM Subsidy ....................... 46000 1,203,087
10. Total.................................. $ 20,051,368

The above appropriation for Rural Health Outreach Programs (fund 0343, appropriation 37700) includes rural health activities and programs; rural residency development and education; and rural outreach activities.

The above appropriation for West Virginia University School of Medicine BRIM Subsidy (fund 0343, appropriation 46000) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the “Total Premium Billed” to the institution as part of the full cost of their malpractice insurance coverage.

97-West Virginia University –

General Administrative Fund

(WV Code Chapter 18B)

Fund 0344 FY 2018 Org 0463

1. West Virginia University .......... 45900 $ 91,057,983
<table>
<thead>
<tr>
<th>Item</th>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jackson’s Mill</td>
<td>46100</td>
<td>472,960</td>
</tr>
<tr>
<td>West Virginia University</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Institute of Technology</td>
<td>47900</td>
<td>7,436,007</td>
</tr>
<tr>
<td>State Priorities – Brownfield</td>
<td>53100</td>
<td>314,188</td>
</tr>
<tr>
<td>West Virginia University –</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Potomac State</td>
<td>99400</td>
<td>3,650,589</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$ 102,931,727</td>
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</tbody>
</table>

From the above appropriation for Jackson’s Mill (fund 0344, appropriation 46100) $250,000 shall be used for the West Virginia State Fire Training Academy.

98-Marshall University –

School of Medicine

(WV Code Chapter 18B)

Fund 0347 FY 2018 Org 0471

<table>
<thead>
<tr>
<th>Item</th>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marshall Medical School</td>
<td>17300</td>
<td>$11,859,733</td>
</tr>
<tr>
<td>Rural Health Outreach</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Programs (R)</td>
<td>37700</td>
<td>163,219</td>
</tr>
<tr>
<td>Forensic Lab</td>
<td>37701</td>
<td>235,104</td>
</tr>
<tr>
<td>Center for Rural Health</td>
<td>37702</td>
<td>155,964</td>
</tr>
<tr>
<td>Marshall University Medical School</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BRIM Subsidy</td>
<td>44900</td>
<td>909,673</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$13,323,693</td>
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</tbody>
</table>

Any unexpended balance remaining in the appropriation for Rural Health Outreach Program (fund 0347, appropriation 37700) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0347, fiscal year 2017, appropriation 37700 ($3,352) which shall expire on June 30, 2017.

The above appropriation for Rural Health Outreach Programs (fund 0347, appropriation 37700) includes rural
health activities and programs; rural residency development and education; and rural outreach activities.

The above appropriation for Marshall University Medical School BRIM Subsidy (fund 0347, appropriation 44900) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the “Total Premium Billed” to the institution as part of the full cost of their malpractice insurance coverage.

99-Marshall University –

General Administration Fund

(WV Code Chapter 18B)

Fund 0348 FY 2018 Org 0471

<table>
<thead>
<tr>
<th>Fund</th>
<th>Description</th>
<th>Appropriation</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>44800</td>
<td>Marshall University</td>
<td>$42,171,166</td>
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</tr>
<tr>
<td>44801</td>
<td>Luke Lee Listening Language and Learning Lab</td>
<td>93,441</td>
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</tr>
<tr>
<td>51900</td>
<td>Vista E-Learning (R)</td>
<td>229,019</td>
<td></td>
</tr>
<tr>
<td>53100</td>
<td>State Priorities – Brownfield Professional Development (R)</td>
<td>309,606</td>
<td></td>
</tr>
<tr>
<td>80700</td>
<td>Marshall University Graduate College Writing Project (R)</td>
<td>25,412</td>
<td></td>
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<tr>
<td>93200</td>
<td>WV Autism Training Center (R)</td>
<td>$1,671,280</td>
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<tr>
<td>Total</td>
<td></td>
<td>$44,499,924</td>
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Any unexpended balances remaining in the appropriations for Vista E-Learning (fund 0348, appropriation 51900), State Priorities – Brownfield Professional Development (fund 0348, appropriation 53100), Marshall University Graduate College Writing Project (fund 0348, appropriation 80700), and WV Autism Training Center (fund 0348, appropriation 93200) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0348, fiscal year 2017, appropriation 51900 ($4,982), fund 0348, fiscal year 2017, appropriation 53100 ($6,687), fund 0348, fiscal year 2017, appropriation 80700
23 ($415), and fund 0348, fiscal year 2017, appropriation
24 93200 ($35,906) which shall expire on June 30, 2017.

100-West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2018 Org 0476

<table>
<thead>
<tr>
<th>Item</th>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Virginia School of Osteopathic Medicine</td>
<td>17200</td>
<td>$6,487,489</td>
</tr>
<tr>
<td>Rural Health Outreach Programs (R)</td>
<td>37700</td>
<td>160,659</td>
</tr>
<tr>
<td>West Virginia School of Osteopathic Medicine BRIM Subsidy</td>
<td>40300</td>
<td>153,405</td>
</tr>
<tr>
<td>Rural Health Initiative – Medical Schools Support</td>
<td>58100</td>
<td>386,457</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$7,188,010</td>
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Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) at the close of fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018, with the exception of fund 0336, fiscal year 2017, appropriation 37700 ($3,367) which shall expire on June 30, 2017.

The above appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) includes rural health activities and programs; rural residency development and education; and rural outreach activities.

The above appropriation for West Virginia School of Osteopathic Medicine BRIM Subsidy (fund 0336, appropriation 40300) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the “Total Premium Billed” to the institution as part of the full cost of their malpractice insurance coverage.
101-Bluefield State College
(WV Code Chapter 18B)
Fund 0354 FY 2018 Org 0482
1 Bluefield State College ................. 40800 $ 5,379,199

102-Concord University
(WV Code Chapter 18B)
Fund 0357 FY 2018 Org 0483
1 Concord University ...................... 41000 $ 8,278,077

103-Fairmont State University
(WV Code Chapter 18B)
Fund 0360 FY 2018 Org 0484
1 Fairmont State University .............. 41400 $ 14,579,417

104-Glenville State College
(WV Code Chapter 18B)
Fund 0363 FY 2018 Org 0485
1 Glenville State College ................. 42800 $ 5,622,099

105-Shepherd University
(WV Code Chapter 18B)
Fund 0366 FY 2018 Org 0486
1 Shepherd University ..................... 43200 $ 9,360,954

106-West Liberty University
(WV Code Chapter 18B)
Appropriations

Fund 0370 FY 2018 Org 0488

1. West Liberty University ............... 43900 $ 7,592,683

107-West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2018 Org 0490

1. West Virginia State University ...... 44100 $ 9,514,960
2. West Virginia State University
3. Land Grant Match ..................... 95600 1,584,947
4. Total ....................................... $ 11,099,907
5. Total TITLE II, Section 1 – General Revenue
   (Including claims against the state) .... $ 4,225,050,000

Sec. 2. Appropriations from state road fund. — From
the state road fund there are hereby appropriated
conditionally upon the fulfillment of the provisions set forth
in Article 2, Chapter 11B of the Code the following
amounts, as itemized, for expenditure during the fiscal year
2018.

DEPARTMENT OF TRANSPORTATION

108-Division of Motor Vehicles

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20 and 24A)

Fund 9007 FY 2018 Org 0802

State

Appropria- Road

tion Fund

1. Personal Services and
2. Employee Benefits .................... 00100 $ 23,278,949
3. Current Expenses ....................... 13000 16,192,150
4. Repairs and Alterations ............... 06400 144,000
### 109-Division of Highways

(WV Code Chapters 17 and 17C)

**Fund 9017 FY 2018 Org 0803**

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt Service</td>
<td>04000</td>
<td>$24,000,000</td>
</tr>
<tr>
<td>Maintenance</td>
<td>23700</td>
<td>359,278,000</td>
</tr>
<tr>
<td>Nonfederal Improvements</td>
<td>23701</td>
<td>231,400,000</td>
</tr>
<tr>
<td>Inventory Revolving</td>
<td>27500</td>
<td>4,000,000</td>
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<tr>
<td>Equipment Revolving</td>
<td>27600</td>
<td>15,000,000</td>
</tr>
<tr>
<td>General Operations</td>
<td>27700</td>
<td>45,995,000</td>
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<tr>
<td>Interstate Construction</td>
<td>27800</td>
<td>100,000,000</td>
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<td>Other Federal Aid Programs</td>
<td>27900</td>
<td>362,000,000</td>
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<tr>
<td>Appalachian Programs</td>
<td>28000</td>
<td>120,000,000</td>
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<tr>
<td>Highway Litter Control</td>
<td>28200</td>
<td>1,727,000</td>
</tr>
<tr>
<td>Courtesy Patrol</td>
<td>28201</td>
<td>5,000,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$1,268,400,000</strong></td>
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</tbody>
</table>

The above appropriations are to be expended in accordance with the provisions of Chapters 17 and 17C of the Code.

The Commissioner of Highways shall have the authority to operate revolving funds within the State Road Fund for the operation and purchase of various types of equipment used directly and indirectly in the construction and maintenance of roads and for the purchase of inventories and materials and supplies.

There is hereby appropriated in addition to the above appropriations, sufficient money for the payment of claims, accrued or arising during this budgetary period, to be paid in accordance with Sections 17 and 18, Article 2, Chapter 14 of the code.
It is the intent of the Legislature to capture and match all federal funds available for expenditure on the Appalachian highway system at the earliest possible time. Therefore, should amounts in excess of those appropriated be required for the purposes of Appalachian programs, funds in excess of the amount appropriated may be made available upon recommendation of the commissioner and approval of the Governor. Further, for the purpose of Appalachian programs, funds appropriated by appropriation may be transferred to other appropriations upon recommendation of the commissioner and approval of the Governor.

110-Office of Administrative Hearings

(WV Code Chapter 17C)

Fund 9027 FY 2018 Org 0808

1 Personal Services and
2 Employee Benefits............... 00100 $ 1,585,201
3 Current Expenses................... 13000 338,278
4 Repairs and Alterations.......... 06400 3,000
5 Equipment.......................... 07000 15,500
6 BRIM Premium...................... 91300 10,000
7 Total.................................. $ 1,951,979
8 Total TITLE II, Section 2 – State Road Fund
9 (Including claims against the state)..... $1,314,293,957

Sec. 3. Appropriations from other funds. — From the funds designated there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2018.

LEGISLATIVE

111-Crime Victims Compensation Fund

(WV Code Chapter 14)
### Fund 1731 FY 2018 Org 2300

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$498,020</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>13000</td>
<td>133,903</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>1,000</td>
</tr>
<tr>
<td>4</td>
<td>Economic Loss Claim</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Payment Fund</td>
<td>33400</td>
<td>2,360,125</td>
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<tr>
<td>6</td>
<td>Other Assets</td>
<td>69000</td>
<td>3,700</td>
</tr>
<tr>
<td>7</td>
<td>Total</td>
<td></td>
<td>$2,996,748</td>
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</tbody>
</table>

### JUDICIAL

#### 112-Supreme Court –

**Family Court Fund**

(WV Code Chapter 51)

**Fund 1763 FY 2018 Org 2400**

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Current Expenses</td>
<td>13000</td>
<td>$1,600,000</td>
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</tbody>
</table>

#### 113-Supreme Court –

**Court Advanced Technology Subscription Fund**

(WV Code Chapter 51)

**Fund 1704 FY 2018 Org 2400**

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
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<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>Current Expenses</td>
<td>13000</td>
<td>$500,000</td>
</tr>
</tbody>
</table>

#### 114-Supreme Court –

**Adult Drug Court Participation Fund**

(WV Code Chapter 62)
Fund 1705 FY 2018 Org 2400

1  Current Expenses ...................... 13000 $ 300,000

EXECUTIVE

115-Governor’s Office –

Minority Affairs Fund

(WV Code Chapter 5)

Fund 1058 FY 2018 Org 0100

1  Personal Services and
2  Employee Benefits..................... 00100 $ 172,800
3  Current Expenses..................... 13000 503,200
4  Martin Luther King, Jr.
5  Holiday Celebration................ 03100 8,926
6  Total...................................... $ 684,926

116-Auditor’s Office –

Land Operating Fund

(WV Code Chapters 11A, 12 and 36)

Fund 1206 FY 2018 Org 1200

1  Personal Services and
2  Employee Benefits..................... 00100 $ 749,297
3  Unclassified ............................. 09900 15,139
4  Current Expenses..................... 13000 715,291
5  Repairs and Alterations............. 06400 2,600
6  Equipment............................... 07000 426,741
7  Cost of Delinquent Land Sales ..... 76800 1,341,168
8  Total...................................... $ 3,250,236

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the necessary amount for the expenditure of funds other than Personal Services and Employee Benefits to enable the division to pay the
13 direct expenses relating to land sales as provided in Chapter
14 11A of the West Virginia Code.

15 The total amount of these appropriations shall be paid
16 from the special revenue fund out of fees and collections as
17 provided by law.

117-Auditor’s Office –

Local Government Purchasing Card Expenditure Fund

(WV Code Chapter 6)

Fund 1224 FY 2018 Org 1200

<table>
<thead>
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<th>Item</th>
<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$588,283</td>
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<td>2</td>
<td>Current Expenses</td>
<td>13000</td>
<td>$282,030</td>
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<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>$6,000</td>
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<tr>
<td>4</td>
<td>Equipment</td>
<td>07000</td>
<td>$10,805</td>
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<tr>
<td>5</td>
<td>Other Assets</td>
<td>69000</td>
<td>$50,000</td>
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<tr>
<td>6</td>
<td>Statutory Revenue Distribution</td>
<td>74100</td>
<td>$2,000,000</td>
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<tr>
<td>7</td>
<td>Total</td>
<td></td>
<td>$2,937,118</td>
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</table>

9 There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer of revenue distribution requirements to provide a proportionate share of rebates back to the general fund of local governments based on utilization of the program in accordance with W.Va. Code §6-9-2b.

118-Auditor’s Office –

Securities Regulation Fund

(WV Code Chapter 32)

Fund 1225 FY 2018 Org 1200

<table>
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<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$2,375,836</td>
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<tr>
<td>2</td>
<td>Unclassified</td>
<td>09900</td>
<td>$31,866</td>
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</table>
4 Current Expenses ....................... 13000 $1,463,830
5 Repairs and Alterations .............. 06400 12,400
6 Equipment ............................... 07000 394,700
7 Other Assets ............................. 69000 900,000
8 Total ....................................... $5,178,632

119-Auditor’s Office – Technology Support and Acquisition Fund

(WV Code Chapter 12)

Fund 1233 FY 2018 Org 1200

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<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>$160,000</td>
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<tr>
<td>Other Assets</td>
<td>69000</td>
<td>100,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$260,000</td>
</tr>
</tbody>
</table>

Fifty percent of the deposits made into this fund shall be transferred to the Treasurer’s Office – Technology Support and Acquisition Fund (fund 1329, org 1300) for expenditure for the purposes described in W.Va. Code §12-3-10c.

120-Auditor’s Office – Purchasing Card Administration Fund

(WV Code Chapter 12)

Fund 1234 FY 2018 Org 1200

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
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<td>Current Expenses</td>
<td>13000</td>
<td>2,303,622</td>
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<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>5,500</td>
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<tr>
<td>Equipment</td>
<td>07000</td>
<td>650,000</td>
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<tr>
<td>Other Assets</td>
<td>69000</td>
<td>308,886</td>
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<tr>
<td>Statutory Revenue Distribution</td>
<td>74100</td>
<td>4,000,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$9,935,405</td>
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</table>

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer and revenue distribution requirements to the Purchasing Improvement Fund (fund 2264), the
13 Hatfield-McCoy Regional Recreation Authority, and the State Park Operating Fund (fund 3265) per W.Va. Code §12-3-10d.

121-Auditor’s Office –

Chief Inspector’s Fund

(WV Code Chapter 6)

Fund 1235 FY 2018 Org 1200

1 Personal Services and
2 Employee Benefits............... 00100 $3,405,512
3 Current Expenses...................... 13000 765,915
4 Equipment............................ 07000  50,000
5 Total................................... $4,221,427

122-Auditor’s Office –

Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund

(WV Code Chapters 12 and 33)

Fund 1239 FY 2018 Org 1200

1 Volunteer Fire Department Workers’
2 Compensation Subsidy........... 83200 $2,500,000

123-Treasurer’s Office

College Prepaid Tuition and Savings Program

Administrative Account

(WV Code Chapter 18)

Fund 1301 FY 2018 Org 1300

1 Personal Services and
2 Employee Benefits............... 00100 $774,769
| 3 | Unclassified ................................. | 09900 | 14,000 |
| 4 | Current Expenses ............................. | 13000 | 619,862 |
| 5 | Total ........................................ |     | $ 1,408,631 |

124-Department of Agriculture –

Agriculture Fees Fund

(WV Code Chapter 19)

Fund 1401 FY 2018 Org 1400

| 1 | Personal Services and Employee Benefits .................. | 00100 | $ 2,244,245 |
| 2 | Unclassified ................................... | 09900 | 37,425 |
| 3 | Current Expenses ........................... | 13000 | 1,356,184 |
| 4 | Repairs and Alterations .......................... | 06400 | 58,500 |
| 5 | Equipment ...................................... | 07000 | 36,209 |
| 6 | Other Assets ................................... | 69000 | 10,000 |
| 7 | Total ........................................ |     | $ 3,742,563 |

125-Department of Agriculture –

West Virginia Rural Rehabilitation Program

(WV Code Chapter 19)

Fund 1408 FY 2018 Org 1400

| 1 | Personal Services and Employee Benefits .................. | 00100 | $ 73,807 |
| 2 | Unclassified ................................... | 09900 | 10,476 |
| 3 | Current Expenses ........................... | 13000 | 963,404 |
| 5 | Total ........................................ |     | $ 1,047,687 |

126-Department of Agriculture –

General John McCausland Memorial Farm Fund

(WV Code Chapter 19)

Fund 1409 FY 2018 Org 1400
Ch. 1] APPROPRIATIONS 2237

1 Personal Services and
2 Employee Benefits.......... 00100 $ 67,000
3 Unclassified .................. 09900 2,100
4 Current Expenses.......... 13000 89,500
5 Repairs and Alterations..... 06400 36,400
6 Equipment.................. 07000 15,000
7 Total.............................. $ 210,000

8 The above appropriations shall be expended in accordance with Article 26, Chapter 19 of the Code.

127-Department of Agriculture –

Farm Operating Fund

(WV Code Chapter 19)

Fund 1412 FY 2018 Org 1400

1 Personal Services and
2 Employee Benefits.......... 00100 $ 309,248
3 Unclassified .................. 09900 15,173
4 Current Expenses.......... 13000 1,167,464
5 Repairs and Alterations..... 06400 238,722
6 Equipment.................. 07000 249,393
7 Other Assets.................. 69000 20,000
8 Total.............................. $ 2,000,000

128-Department of Agriculture –

Donated Food Fund

(WV Code Chapter 19)

Fund 1446 FY 2018 Org 1400

1 Personal Services and
2 Employee Benefits.......... 00100 $ 958,864
3 Unclassified .................. 09900 45,807
4 Current Expenses.......... 13000 3,410,542
5 Repairs and Alterations..... 06400 128,500
6 Equipment.................. 07000 10,000
2238

7 Other Assets.............................. 69000 $ 27,000
8 Total...................................... $ 4,580,713

129-Department of Agriculture –

Integrated Predation Management Fund

(WV Code Chapter 7)

Fund 1465 FY 2018 Org 1400

1 Current Expenses ....................... 13000 $ 100,000

130-Department of Agriculture –

West Virginia Spay Neuter Assistance Fund

(WV Code Chapter 19)

Fund 1481 FY 2018 Org 1400

1 Current Expenses ....................... 13000 $ 100

131-Department of Agriculture –

Veterans and Warriors to Agriculture Fund

(WV Code Chapter 19)

Fund 1483 FY 2018 Org 1400

1 Current Expenses ....................... 13000 $ 7,500

132-Department of Agriculture –

State FFA-FHA Camp and Conference Center

(WV Code Chapters 18 and 18A)

Fund 1484 FY 2018 Org 1400

1 Personal Services and
2 Employee Benefits....................... 00100 $ 1,169,194
3 Unclassified .............................. 09900 17,000
## APPROPRIATIONS

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
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<tr>
<td>4 Current Expenses</td>
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<td>5 Repairs and Alterations</td>
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</tr>
<tr>
<td>6 Equipment</td>
<td>07000</td>
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<td>2018</td>
</tr>
<tr>
<td>7 Buildings</td>
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</tr>
<tr>
<td>8 Other Assets</td>
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</tr>
<tr>
<td>9 Land</td>
<td>73000</td>
<td>1,000</td>
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</tr>
<tr>
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</table>

### 133-Attorney General –

**Antitrust Enforcement Fund**

(WV Code Chapter 47)

Fund 1507 FY 2018 Org 1500

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
<th>2018</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services and Employee Benefits</td>
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<td>356,900</td>
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</tr>
<tr>
<td>2 Current Expenses</td>
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<td>148,803</td>
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<td>3 Repairs and Alterations</td>
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<td>1,000</td>
<td>2018</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>07000</td>
<td>1,000</td>
<td>2018</td>
</tr>
<tr>
<td>Total</td>
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<td>507,703</td>
<td></td>
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</table>

### 134-Attorney General –

**Preneed Burial Contract Regulation Fund**

(WV Code Chapter 47)

Fund 1513 FY 2018 Org 1500

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services and Employee Benefits</td>
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</tr>
<tr>
<td>2 Current Expenses</td>
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<td>3 Repairs and Alterations</td>
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<tr>
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</table>

### 135-Attorney General –

**Preneed Funeral Guarantee Fund**
### Fund 1514 FY 2018 Org 1500

<table>
<thead>
<tr>
<th>Account</th>
<th>Code</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
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<td>$901,135</td>
</tr>
</tbody>
</table>

### 136-Secretary of State –

**Service Fees and Collection Account**

(WV Code Chapters 3, 5, and 59)

### Fund 1612 FY 2018 Org 1600

<table>
<thead>
<tr>
<th>Account</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and</td>
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</tr>
<tr>
<td>Employee Benefits</td>
<td>00100</td>
<td>$991,051</td>
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<tr>
<td>Unclassified</td>
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<td>4,524</td>
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<tr>
<td>Total</td>
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</table>

### 137-Secretary of State –

**General Administrative Fees Account**

(WV Code Chapters 3, 5, and 59)

### Fund 1617 FY 2018 Org 1600

<table>
<thead>
<tr>
<th>Account</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>00100</td>
<td>$2,769,898</td>
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<tr>
<td>Unclassified</td>
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<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>796,716</td>
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<td>Technology Improvements</td>
<td>59900</td>
<td>750,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$4,342,143</td>
</tr>
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</table>

### DEPARTMENT OF ADMINISTRATION

138-Department of Administration –

**Office of the Secretary –**

**Tobacco Settlement Fund**
(WV Code Chapter 4)

Fund 2041 FY 2018 Org 0201

1 Tobacco Settlement Securitization
2 Trustee Pass Thru ....................  65000 $ 80,000,000

139-Department of Administration –

Office of the Secretary –

Employee Pension and Health Care Benefit Fund

(WV Code Chapter 18)

Fund 2044 FY 2018 Org 0201

1 Current Expenses .......................  13000 $ 34,638,000

2 The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be transferred to the Consolidated Public Retirement Board – West Virginia Teachers’ Retirement System Employers Accumulation Fund (fund 2601).

140-Division of Information Services and Communications

(WV Code Chapter 5A)

Fund 2220 FY 2018 Org 0210

1 Personal Services and
2 Employee Benefits ....................  00100 $ 21,378,322
3 Unclassified ...............................  09900  382,354
4 Current Expenses ......................  13000  13,378,766
5 Repairs and Alterations ...............  06400  1,000
6 Equipment ...............................  07000  2,050,000
7 Other Assets .........................  69000  1,045,000
8 Total ..................................... $ 38,235,442

9 The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the
Division of Information Services and Communications as provided by law.

Each spending unit operating from the General Revenue Fund, from special revenue funds or receiving reimbursement for postage from the federal government shall be charged monthly for all postage meter service and shall reimburse the revolving fund monthly for all such amounts.

141-Division of Purchasing –

Vendor Fee Fund

(WV Code Chapter 5A)

Fund 2263 FY 2018 Org 0213

<table>
<thead>
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<th>Code</th>
<th>Amount</th>
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<tr>
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<td>Unclassified</td>
<td>09900</td>
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<td>Current Expenses</td>
<td>13000</td>
<td>238,115</td>
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<td>5,000</td>
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<tr>
<td>Equipment</td>
<td>07000</td>
<td>2,500</td>
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<tr>
<td>Other Assets</td>
<td>69000</td>
<td>2,500</td>
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<tr>
<td>BRIM Premium</td>
<td>91300</td>
<td>810</td>
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<td>Total</td>
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<td>$906,515</td>
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142-Division of Purchasing –

Purchasing Improvement Fund

(WV Code Chapter 5A)

Fund 2264 FY 2018 Org 0213

<table>
<thead>
<tr>
<th>Description</th>
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<th>Amount</th>
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<tr>
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### 143-Travel Management –

#### Fleet Management Office Fund

(WV Code Chapter 5A)

**Fund 2301 FY 2018 Org 0215**

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<td><strong>Total</strong></td>
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### 144-Travel Management –

#### Aviation Fund

(WV Code Chapter 5A)

**Fund 2302 FY 2018 Org 0215**

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<td>Other Assets</td>
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<td>Land</td>
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<td><strong>Total</strong></td>
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</table>

### 145-Division of Personnel

(WV Code Chapter 29)
Fund 2440 FY 2018 Org 0222

1 Personal Services and
2 Employee Benefits .................. 00100 $ 3,942,590
3 Unclassified ........................ 09900 51,418
4 Current Expenses .................. 13000 1,062,813
5 Repairs and Alterations ............ 06400 5,000
6 Equipment ......................... 07000 20,000
7 Other Assets ...................... 69000 60,000
8 Total ................................ $ 5,141,821

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Personnel.

146-West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 2521 FY 2018 Org 0228

1 Personal Services and
2 Employee Benefits .................. 00100 $ 249,242
3 Unclassified ........................ 09900 4,023
4 Current Expenses .................. 13000 297,528
5 Repairs and Alterations ............ 06400 600
6 Equipment ......................... 07000 500
7 Other Assets ...................... 69000 500
8 Total ................................ $ 552,393

147-Office of Technology –

Chief Technology Officer Administration Fund

(WV Code Chapter 5A)

Fund 2531 FY 2018 Org 0231

1 Personal Services and
2 Employee Benefits .................. 00100 $ 399,911
3 Unclassified ........................ 09900 6,949
4 Current Expenses .................. 13000 227,116
From the above fund, the provisions of W.Va. Code §11B-2-18 shall not operate to permit expenditures in excess of the funds authorized for expenditure herein.

**DEPARTMENT OF COMMERCE**

**148-Division of Forestry**

(WV Code Chapter 19)

**Fund 3081 FY 2018 Org 0305**

| 1 | Personal Services and Employee Benefits | 00100 | $ 1,464,328 |
| 2 | Current Expenses | 13000 | 282,202 |
| 3 | Repairs and Alterations | 06400 | 53,000 |
| 4 | Total | | $ 1,799,530 |

**149-Division of Forestry – Timbering Operations Enforcement Fund**

(WV Code Chapter 19)

**Fund 3082 FY 2018 Org 0305**

| 1 | Personal Services and Employee Benefits | 00100 | $ 224,433 |
| 2 | Current Expenses | 13000 | 87,036 |
| 3 | Repairs and Alterations | 06400 | 11,250 |
| 4 | Total | | $ 322,719 |

**150-Division of Forestry – Severance Tax Operations**

(WV Code Chapter 11)
Fund 3084 FY 2018 Org 0305

1 Personal Services and
2 Employee Benefits .................. 00100 $ 859,626
3 Current Expenses ................... 13000 435,339
4 Total .................................... $ 1,294,965

151-Geological and Economic Survey –

Geological and Analytical Services Fund

(WV Code Chapter 29)

Fund 3100 FY 2018 Org 0306

1 Personal Services and
2 Employee Benefits .................. 00100 $ 37,966
3 Unclassified ........................... 09900 2,182
4 Current Expenses ................... 13000 141,631
5 Repairs and Alterations ............ 06400 50,000
6 Equipment .............................. 07000 20,000
7 Other Assets ........................... 69000 10,000
8 Total .................................... $ 261,779

The above appropriations shall be used in accordance with W.Va. Code §29-2-4.

152-West Virginia Development Office –

Department of Commerce –

Marketing and Communications Operating Fund

(WV Code Chapter 5B)

Fund 3002 FY 2018 Org 0307

1 Personal Services and
2 Employee Benefits .................. 00100 $ 1,528,219
3 Unclassified ........................... 09900 30,000
4 Current Expenses ................... 13000 1,482,760
5 Total .................................... $ 3,040,979
153-West Virginia Development Office –
Office of Coalfield Community Development

(WV Code Chapter 5B)

**Fund 3162 FY 2018 Org 0307**

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154-Division of Labor –

**HVAC Fund**

(WV Code Chapter 21)

**Fund 3186 FY 2018 Org 0308**

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155-Division of Labor –

**Contractor Licensing Board Fund**

(WV Code Chapter 21)

**Fund 3187 FY 2018 Org 0308**

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<tr>
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**156-Division of Labor –

Elevator Safety Fund**

(WV Code Chapter 21)

Fund 3188 FY 2018 Org 0308

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<thead>
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<td>Buildings</td>
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<td>1,000</td>
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<td>7</td>
<td>BRIM Premium</td>
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**157-Division of Labor –

Steam Boiler Fund**

(WV Code Chapter 21)

Fund 3189 FY 2018 Org 0308

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<td>Buildings</td>
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<td>7</td>
<td>BRIM Premium</td>
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### 158-Division of Labor –

**Crane Operator Certification Fund**

(WV Code Chapter 21)

Fund 3191 FY 2018 Org 0308

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<td><strong>Total</strong></td>
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### 159-Division of Labor –

**Amusement Rides and Amusement Attraction Safety Fund**

(WV Code Chapter 21)

Fund 3192 FY 2018 Org 0308

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<td>BRIM Premium</td>
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### 160-Division of Labor –

**State Manufactured Housing Administration Fund**

(WV Code Chapter 21)

Fund 3195 FY 2018 Org 0308
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161-Division of Labor –

Weights and Measures Fund

(WV Code Chapter 47)

Fund 3196 FY 2018 Org 0308

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162-Division of Labor –

Bedding and Upholstery Fund

(WV Code Chapter 21)

Fund 3198 FY 2018 Org 0308

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<tr>
<td>6 Buildings</td>
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<td>1,000</td>
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<tr>
<td>7 BRIM Premium</td>
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<td>2,000</td>
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<td>8 Total</td>
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</table>
163-Division of Labor –

Psychophysiological Examiners Fund

(WV Code Chapter 21)

Fund 3199 FY 2018 Org 0308

1  Current Expenses .........................  13000  $ 4,000

164-Division of Natural Resources –

License Fund – Wildlife Resources

(WV Code Chapter 20)

Fund 3200 FY 2018 Org 0310

1  Wildlife Resources .......................  02300  $ 5,551,895
2  Administration ..............................  15500  1,387,974
3  Capital Improvements and Land Purchase (R) ...................  24800  1,387,973
4  Law Enforcement ...........................  80600  5,551,895
6  Total ...........................................  $13,879,737

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Natural Resources.

Any unexpended balance remaining in the appropriation for Capital Improvements and Land Purchase (fund 3200, appropriation 24800) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

165-Division of Natural Resources –

Natural Resources Game Fish and Aquatic Life Fund

(WV Code Chapter 22)

Fund 3202 FY 2018 Org 0310

1  Current Expenses .........................  13000  $ 125,000
166-Division of Natural Resources –

**Nongame Fund**

(WV Code Chapter 20)

Fund 3203 FY 2018 Org 0310

<table>
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<tr>
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167-Division of Natural Resources –

**Planning and Development Division**

(WV Code Chapter 20)

Fund 3205 FY 2018 Org 0310

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168-Division of Natural Resources –

**Whitewater Study and Improvement Fund**

(WV Code Chapter 20)

Fund 3253 FY 2018 Org 0310

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### 169-Division of Natural Resources –

**Whitewater Advertising and Promotion Fund**

(WV Code Chapter 20)

Fund 3256 FY 2018 Org 0310

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<tbody>
<tr>
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### 170-Division of Miners’ Health, Safety and Training –

**Special Health, Safety and Training Fund**

(WV Code Chapter 22A)

Fund 3355 FY 2018 Org 0314

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### 171-Department of Commerce –

**Office of the Secretary –

Broadband Enhancement Fund**

Fund 3013 FY 2018 Org 0327

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<tbody>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>$1,887,000</td>
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</tbody>
</table>
172-Office of Energy –

Energy Assistance

(WV Code Chapter 5B)

Fund 3010 FY 2018 Org 0328

1 Energy Assistance – Total .............  64700 $ 62,000

DEPARTMENT OF EDUCATION

173-State Board of Education –

Strategic Staff Development

(WV Code Chapter 18)

Fund 3937 FY 2018 Org 0402

1 Personal Services and
2 Employee Benefits......................  00100 $ 134,000
3 Unclassified .............................  09900 1,000
4 Current Expenses ........................  13000 265,000
5 Total........................................ $ 400,000

174-State Board of Education –

School Construction Fund

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2018 Org 0402

1 SBA Construction Grants .............  24000 $35,845,818
2 Directed Transfer .........................  70000 1,371,182
3 Total........................................ $37,217,000

4 The above appropriation for Directed Transfer (fund 3951, appropriation 70000) shall be transferred to the School Building Authority Fund (3959) for the administrative expenses of the School Building Authority.
175-School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2018 Org 0402

1  Personal Services and
2  Employee Benefits...............  00100  $  1,085,152
3  Current Expenses....................  13000   246,880
4  Repairs and Alterations..............  06400   13,150
5  Equipment............................  07000   26,000
6  Total...................................  $  1,371,182

DEPARTMENT OF EDUCATION AND THE ARTS

176-Office of the Secretary –

Lottery Education Fund Interest Earnings –

Control Account

(WV Code Chapter 29)

Fund 3508 FY 2018 Org 0431

1  Any unexpended balance remaining in the appropriation
2  for Educational Enhancements (fund 3508, appropriation
3  69500) at the close of the fiscal year 2017 is hereby
4  reappropriated for expenditure during the fiscal year 2018.

177-Division of Culture and History –

Public Records and Preservation Revenue Account

(WV Code Chapter 5A)

Fund 3542 FY 2018 Org 0432

1  Personal Services and
2  Employee Benefits...............  00100  $  211,418
3  Current Expenses....................  13000   862,241
4  Equipment............................  07000   75,000
5  Buildings.............................  25800   1,000
### 178-State Board of Rehabilitation –

**Division of Rehabilitation Services –**

*West Virginia Rehabilitation Center Special Account*

**(WV Code Chapter 18)**

Fund 8664 FY 2018 Org 0932

<table>
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### DEPARTMENT OF ENVIRONMENTAL PROTECTION

**179-Solid Waste Management Board**

**(WV Code Chapter 22C)**

Fund 3288 FY 2018 Org 0312

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<tr>
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### 180-Division of Environmental Protection –

**Hazardous Waste Management Fund**

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### 181-Division of Environmental Protection –

#### Air Pollution Education and Environment Fund

(WV Code Chapter 22)

**Fund 3023 FY 2018 Org 0313**

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<td>3. Repairs and Alterations</td>
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<td>4. Equipment</td>
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<td>6. Other Assets</td>
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### 182-Division of Environmental Protection –

#### Special Reclamation Fund

(WV Code Chapter 22)

**Fund 3024 FY 2018 Org 0313**

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### 182-Division of Environmental Protection –

#### Special Reclamation Fund

(WV Code Chapter 22)

**Fund 3321 FY 2018 Org 0313**

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<td>Personal Services and</td>
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183-Division of Environmental Protection –

Oil and Gas Reclamation Fund

(WV Code Chapter 22)

Fund 3322 FY 2018 Org 0313

184-Division of Environmental Protection –

Oil and Gas Operating Permit and Processing Fund

(WV Code Chapter 22)

Fund 3323 FY 2018 Org 0313

185-Division of Environmental Protection –

Mining and Reclamation Operations Fund

(WV Code Chapter 22)

Fund 3324 FY 2018 Org 0313

1 Personal Services and
2 Employee Benefits $ 4,035,449
### 186-Division of Environmental Protection –

**Underground Storage Tank**

**Administrative Fund**

(WV Code Chapter 22)

Fund 3325 FY 2018 Org 0313

<table>
<thead>
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<th>Item Description</th>
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<tbody>
<tr>
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### 187-Division of Environmental Protection –

**Hazardous Waste Emergency Response Fund**

(WV Code Chapter 22)

Fund 3331 FY 2018 Org 0313

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<th>Item Description</th>
<th>Code</th>
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<tr>
<td>1</td>
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### 188-Division of Environmental Protection –

**Solid Waste Reclamation and Environmental Response Fund**

*(WV Code Chapter 22)*

Fund 3332 FY 2018 Org 0313

<table>
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<th>Item</th>
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</table>

### 189-Division of Environmental Protection –

**Solid Waste Enforcement Fund**

*(WV Code Chapter 22)*

Fund 3333 FY 2018 Org 0313

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<tbody>
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### 190-Division of Environmental Protection –

**Air Pollution Control Fund**

*(WV Code Chapter 22)*
Fund 3336 FY 2018 Org 0313

1 Personal Services and
2 Employee Benefits .......... 00100 $ 5,667,421
3 Current Expenses .............. 13000 1,518,704
4 Repairs and Alterations ...... 06400 84,045
5 Equipment ............. 07000 115,356
6 Unclassified ............... 09900 5,580
7 Other Assets ............... 69000 52,951
8 Total ......................... $ 7,444,057

191-Division of Environmental Protection –
Environmental Laboratory
Certification Fund
(WV Code Chapter 22)

Fund 3340 FY 2018 Org 0313

1 Personal Services and
2 Employee Benefits .......... 00100 $ 295,444
3 Current Expenses .............. 13000 216,288
4 Repairs and Alterations ...... 06400 1,000
5 Equipment ............. 07000 6,500
6 Unclassified ............... 09900 1,120
7 Other Assets ............... 69000 179,000
8 Total ......................... $ 699,352

192-Division of Environmental Protection –
Stream Restoration Fund
(WV Code Chapter 22)

Fund 3349 FY 2018 Org 0313

1 Current Expenses ............... 13000 $ 9,298,205
### 193-Division of Environmental Protection –

**Litter Control Fund**

(WV Code Chapter 22)

Fund 3486 FY 2018 Org 0313

<table>
<thead>
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<th>Code</th>
<th>Amount</th>
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<tbody>
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### 194-Division of Environmental Protection –

**Recycling Assistance Fund**

(WV Code Chapter 22)

Fund 3487 FY 2018 Org 0313

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### 195-Division of Environmental Protection –

**Mountaintop Removal Fund**

(WV Code Chapter 22)

Fund 3490 FY 2018 Org 0313

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### Ch. 1 [APPROPRIATIONS 2263](#)

196-Oil and Gas Conservation Commission –  
**Special Oil and Gas Conservation Fund**  
(WV Code Chapter 22C)

Fund 3371 FY 2018 Org 0315

<table>
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#### DEPARTMENT OF HEALTH AND HUMAN RESOURCES

197-Division of Health –  
**Ryan Brown Addiction Prevention and Recovery Fund**  
(WV Code Chapter 19)

Fund 5111 FY 2018 Org 0506

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<tr>
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198-Division of Health –  
**The Vital Statistics Account**  
(WV Code Chapter 16)

Fund 5144 FY 2018 Org 0506

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199-Division of Health –

Hospital Services Revenue Account

Special Fund

Capital Improvement, Renovation and Operations

(WV Code Chapter 16)

Fund 5156 FY 2018 Org 0506

1 Institutional Facilities Operations.. 33500 $ 56,708,911
2 Medical Services
3 Trust Fund – Transfer.............. 51200  27,800,000
4 Total.............................................. $ 84,508,911

The total amount of these appropriations shall be paid from the Hospital Services Revenue Account Special Fund created by W.Va. Code §16-1-13, and shall be used for operating expenses and for improvements in connection with existing facilities.

Additional funds have been appropriated in fund 0525, fiscal year 2018, organization 0506, for the operation of the institutional facilities. The Secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the appropriation for Institutional Facilities Operations to facilitate cost effective and cost saving services at the community level.

Necessary funds from the above appropriation may be used for medical facilities operations, either in connection with this fund or in connection with the appropriation designated Institutional Facilities Operations in the Consolidated Medical Services Fund (fund 0525, organization 0506).

From the above appropriation to Institutional Facilities Operations, together with available funds from the Consolidated Medical Services Fund (fund 0525,
appropriation 33500) on July 1, 2017, the sum of $160,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.

200-Division of Health –

Laboratory Services Fund

(WV Code Chapter 16)

Fund 5163 FY 2018 Org 0506

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$862,657</td>
</tr>
<tr>
<td>2</td>
<td>Unclassified</td>
<td>09900</td>
<td>18,114</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>13000</td>
<td>930,716</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td></td>
<td>$1,811,487</td>
</tr>
</tbody>
</table>

201-Division of Health –

The Health Facility Licensing Account

(WV Code Chapter 16)

Fund 5172 FY 2018 Org 0506

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$605,950</td>
</tr>
<tr>
<td>2</td>
<td>Unclassified</td>
<td>09900</td>
<td>7,113</td>
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<td>3</td>
<td>Current Expenses</td>
<td>13000</td>
<td>98,247</td>
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<tr>
<td>4</td>
<td>Total</td>
<td></td>
<td>$711,310</td>
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</table>

202-Division of Health –

Hepatitis B Vaccine

(WV Code Chapter 16)

Fund 5183 FY 2018 Org 0506
<table>
<thead>
<tr>
<th>1</th>
<th>Current Expenses .......................</th>
<th>13000</th>
<th>$ 13,800</th>
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</table>

### 203-Division of Health –

**Lead Abatement Account**

(WV Code Chapter 16)

Fund 5204 FY 2018 Org 0506

<table>
<thead>
<tr>
<th>1</th>
<th>Personal Services and</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Employee Benefits ...............</td>
</tr>
<tr>
<td>3</td>
<td>Unclassified .........................</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses .......................</td>
</tr>
<tr>
<td>5</td>
<td>Total .........................................</td>
</tr>
</tbody>
</table>

### 204-Division of Health –

**West Virginia Birth-to-Three Fund**

(WV Code Chapter 16)

Fund 5214 FY 2018 Org 0506

<table>
<thead>
<tr>
<th>1</th>
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</tr>
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<tr>
<td>2</td>
<td>Employee Benefits ...............</td>
</tr>
<tr>
<td>3</td>
<td>Unclassified .........................</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses .......................</td>
</tr>
<tr>
<td>5</td>
<td>Total .........................................</td>
</tr>
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</table>

### 205-Division of Health –

**Tobacco Control Special Fund**

(WV Code Chapter 16)

Fund 5218 FY 2018 Org 0506

| 1 | Current Expenses ....................... | 13000 | $ 7,579 |

### 206-West Virginia Health Care Authority –
### Health Care Cost Review Fund
(WV Code Chapter 16)

**Fund 5375 FY 2018 Org 0507**

<table>
<thead>
<tr>
<th>Description</th>
<th>Account</th>
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</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$3,033,821</td>
</tr>
<tr>
<td>Hospital Assistance</td>
<td>02500</td>
<td>600,000</td>
</tr>
<tr>
<td>Unclassified</td>
<td>09900</td>
<td>67,000</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>2,837,945</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>25,000</td>
</tr>
<tr>
<td>Equipment</td>
<td>07000</td>
<td>50,000</td>
</tr>
<tr>
<td>Buildings</td>
<td>25800</td>
<td>25,000</td>
</tr>
<tr>
<td>Other Assets</td>
<td>69000</td>
<td>100,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$6,738,766</strong></td>
</tr>
</tbody>
</table>

The above appropriation is to be expended in accordance with and pursuant to the provisions of W.Va. Code §16-29B and from the special revolving fund designated Health Care Cost Review Fund.

The Health Care Authority is authorized to transfer up to $1,500,000 from fund 5375 to the West Virginia Health Information Network Account (fund 5380) as authorized per W.Va. Code §16-29G-4.

### 207-West Virginia Health Care Authority – Certificate of Need Program Fund
(WV Code Chapter 16)

**Fund 5377 FY 2018 Org 0507**

<table>
<thead>
<tr>
<th>Description</th>
<th>Account</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$805,113</td>
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<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>774,967</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$1,580,080</strong></td>
</tr>
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</table>

208-West Virginia Health Care Authority –
### West Virginia Health Information Network Account

(WV Code Chapter 16)

**Fund 5380 FY 2018 Org 0507**

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$729,000</td>
</tr>
<tr>
<td>2 Unclassified</td>
<td>09900</td>
<td>20,000</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>13000</td>
<td>1,251,000</td>
</tr>
<tr>
<td>4 Technology</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 Infrastructure Network</td>
<td>35100</td>
<td>3,500,000</td>
</tr>
<tr>
<td>6 Total</td>
<td></td>
<td>$5,500,000</td>
</tr>
</tbody>
</table>

### 209-Division of Human Services –

#### Health Care Provider Tax –

Medicaid State Share Fund

(WV Code Chapter 11)

**Fund 5090 FY 2018 Org 0511**

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Medical Services</td>
<td>18900</td>
<td>$198,381,008</td>
</tr>
<tr>
<td>2 Medical Services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 Administrative Costs</td>
<td>78900</td>
<td>418,992</td>
</tr>
<tr>
<td>4 Total</td>
<td></td>
<td>$198,800,000</td>
</tr>
</tbody>
</table>

The above appropriation for Medical Services Administrative Costs (fund 5090, appropriation 78900) shall be transferred to a special revenue account in the treasury for use by the Department of Health and Human Resources for administrative purposes. The remainder of all moneys deposited in the fund shall be transferred to the West Virginia Medical Services Fund (fund 5084.)

### 210-Division of Human Services –

#### Child Support Enforcement Fund

(WV Code Chapter 48A)
### Fund 5094 FY 2018 Org 0511

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$24,809,509</td>
</tr>
<tr>
<td>Unclassified</td>
<td>09900</td>
<td>$380,000</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>$12,810,491</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$38,000,000</strong></td>
</tr>
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</table>

#### 211-Division of Human Services – Medical Services Trust Fund

(WV Code Chapter 9)

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical Services</td>
<td>18900</td>
<td>$56,318,952</td>
</tr>
<tr>
<td>Medical Services Administrative Costs</td>
<td>78900</td>
<td>$548,723</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$56,867,675</strong></td>
</tr>
</tbody>
</table>

The above appropriation to Medical Services shall be used to provide state match of Medicaid expenditures as defined and authorized in subsection (c) of W.Va. Code §9-4A-2a. Expenditures from the fund are limited to the following: payment of backlogged billings, funding for services to future federally mandated population groups and payment of the required state match for Medicaid disproportionate share payments. The remainder of all moneys deposited in the fund shall be transferred to the Division of Human Services accounts.

### Fund 5454 FY 2018 Org 0511

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unclassified</td>
<td>09900</td>
<td>$7,000</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>$693,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$700,000</strong></td>
</tr>
</tbody>
</table>
213-Division of Human Services –

Domestic Violence Legal Services Fund

(WV Code Chapter 48)

Fund 5455 FY 2018 Org 0511

1 Current Expenses ......................... 13000 $ 900,000

214-Division of Human Services –

West Virginia Works Separate State College Program Fund

(WV Code Chapter 9)

Fund 5467 FY 2018 Org 0511

1 Current Expenses ......................... 13000 $ 1,000,000

215-Division of Human Services –

West Virginia Works Separate State Two-Parent Program Fund

(WV Code Chapter 9)

Fund 5468 FY 2018 Org 0511

1 Current Expenses ......................... 13000 $ 2,000,000

216-Division of Human Services –

Marriage Education Fund

(WV Code Chapter 9)

Fund 5490 FY 2018 Org 0511

1 Personal Services and
2 Employee Benefits ....................... 00100 $ 10,000
3 Current Expenses ......................... 13000 25,000
4 Total ........................................... $ 35,000
### DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY

#### 217-Department of Military Affairs and Public Safety –

*Office of the Secretary –*

*Law-Enforcement, Safety and Emergency Worker*

*Funeral Expense Payment Fund*

(WV Code Chapter 15)

**Fund 6003 FY 2018 Org 0601**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>32,000</td>
</tr>
</tbody>
</table>

**Fund 6057 FY 2018 Org 0603**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$1,643,528</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>650,000</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>485,652</td>
</tr>
<tr>
<td>Equipment</td>
<td>07000</td>
<td>300,000</td>
</tr>
<tr>
<td>Buildings</td>
<td>25800</td>
<td>770,820</td>
</tr>
<tr>
<td>Other Assets</td>
<td>69000</td>
<td>100,000</td>
</tr>
<tr>
<td>Land</td>
<td>73000</td>
<td>50,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$4,000,000</strong></td>
</tr>
</tbody>
</table>

From the above appropriations, the Adjutant General may receive and expend funds to conduct operations and activities to include functions of the Military Authority. The Adjutant General may transfer funds between appropriations, except no funds may be transferred to Personal Services and Employee Benefits (fund 6057, appropriation 00100).
219-Division of Homeland Security and Emergency Management –
West Virginia Interoperable Radio Project
(WV Code Chapter 24)

Fund 6295 FY 2018 Org 0606

1 Current Expenses ......................... 13000 $ 2,000,000

2 Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 6295, appropriation 09600) at the close of fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

220-West Virginia Division of Corrections –
Parolee Supervision Fees
(WV Code Chapter 62)

Fund 6362 FY 2018 Org 0608

1 Personal Services and
2 Employee Benefits ...................... 00100 $ 1,013,793
3 Unclassified .............................. 09900 9,804
4 Current Expenses ........................... 13000 758,480
5 Equipment ..................................... 07000 30,000
6 Other Assets ................................. 69000 40,129
7 Total ........................................... $ 1,852,206

221-West Virginia State Police –
Motor Vehicle Inspection Fund
(WV Code Chapter 17C)

Fund 6501 FY 2018 Org 0612

1 Personal Services and
2 Employee Benefits ...................... 00100 $ 1,786,923
<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Current Expenses</td>
<td>13000</td>
<td>1,488,211</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>06400</td>
<td>204,500</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>07000</td>
<td>3,770,751</td>
</tr>
<tr>
<td>6 Buildings</td>
<td>25800</td>
<td>534,000</td>
</tr>
<tr>
<td>7 Other Assets</td>
<td>69000</td>
<td>5,000</td>
</tr>
<tr>
<td>8 BRIM Premium</td>
<td>91300</td>
<td>302,432</td>
</tr>
<tr>
<td>9 Total</td>
<td></td>
<td>$8,091,817</td>
</tr>
</tbody>
</table>

The total amount of these appropriations shall be paid from the special revenue fund out of fees collected for inspection stickers as provided by law.

222-West Virginia State Police –

Drunk Driving Prevention Fund

(WV Code Chapter 15)

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Current Expenses</td>
<td>13000</td>
<td>$1,327,000</td>
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<tr>
<td>2 Equipment</td>
<td>07000</td>
<td>3,491,895</td>
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<td>3 BRIM Premium</td>
<td>91300</td>
<td>154,452</td>
</tr>
<tr>
<td>4 Total</td>
<td></td>
<td>$4,973,347</td>
</tr>
</tbody>
</table>

The total amount of these appropriations shall be paid from the special revenue fund out of receipts collected pursuant to W.Va. Code §11-15-9a and 16 and paid into a revolving fund account in the State Treasury.

223-West Virginia State Police –

Surplus Real Property Proceeds Fund

(WV Code Chapter 15)

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Buildings</td>
<td>25800</td>
<td>$443,980</td>
</tr>
<tr>
<td>2 Land</td>
<td>73000</td>
<td>1,000</td>
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<tr>
<td>3 BRIM Premium</td>
<td>91300</td>
<td>77,222</td>
</tr>
<tr>
<td>4 Total</td>
<td></td>
<td>$522,202</td>
</tr>
</tbody>
</table>
224-West Virginia State Police –

Surplus Transfer Account

(WV Code Chapter 15)

Fund 6519 FY 2018 Org 0612

<table>
<thead>
<tr>
<th>Description</th>
<th>FY2018 Org 0612</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>$225,000</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>20,000</td>
</tr>
<tr>
<td>Equipment</td>
<td>07000</td>
<td>250,000</td>
</tr>
<tr>
<td>Buildings</td>
<td>25800</td>
<td>40,000</td>
</tr>
<tr>
<td>Other Assets</td>
<td>69000</td>
<td>45,000</td>
</tr>
<tr>
<td>BRIM Premium</td>
<td>91300</td>
<td>5,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$585,000</td>
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</tbody>
</table>

225-West Virginia State Police –

Central Abuse Registry Fund

(WV Code Chapter 15)

Fund 6527 FY 2018 Org 0612

<table>
<thead>
<tr>
<th>Description</th>
<th>FY2018 Org 0612</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
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<tr>
<td>Current Expenses</td>
<td>13000</td>
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<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>500</td>
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<tr>
<td>Equipment</td>
<td>07000</td>
<td>300,500</td>
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<tr>
<td>Other Assets</td>
<td>69000</td>
<td>300,500</td>
</tr>
<tr>
<td>BRIM Premium</td>
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<td>18,524</td>
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<tr>
<td>Total</td>
<td></td>
<td>$908,348</td>
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</table>

226-West Virginia State Police –

Bail Bond Enforcer Account

(WV Code Chapter 15)

Fund 6532 FY 2018 Org 0612

<table>
<thead>
<tr>
<th>Description</th>
<th>FY2018 Org 0612</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>$8,300</td>
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</tbody>
</table>
### 227-West Virginia State Police – State Police Academy Post Exchange

(WV Code Chapter 15)

Fund 6544 FY 2018 Org 0612

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>$160,000</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
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<td>$40,000</td>
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<td><strong>Total</strong></td>
<td></td>
<td><strong>$200,000</strong></td>
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</table>

### 228-Regional Jail and Correctional Facility Authority

(WV Code Chapter 31)

Fund 6675 FY 2018 Org 0615

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$1,971,039</td>
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<tr>
<td>Debt Service</td>
<td>04000</td>
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</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>$495,852</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
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<td>$1,743</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$11,472,634</strong></td>
</tr>
</tbody>
</table>

### 229-Fire Commission – Fire Marshal Fees

(WV Code Chapter 29)

Fund 6152 FY 2018 Org 0619

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$3,033,683</td>
</tr>
<tr>
<td>Unclassified</td>
<td>09900</td>
<td>$3,800</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>$1,249,550</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>$58,500</td>
</tr>
<tr>
<td>Equipment</td>
<td>07000</td>
<td>$140,800</td>
</tr>
<tr>
<td>Other Assets</td>
<td>69000</td>
<td>$12,000</td>
</tr>
<tr>
<td>BRIM Premium</td>
<td>91300</td>
<td>$50,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$4,548,333</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>230-Division of Justice and Community Services –</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>\textit{WV Community Corrections Fund}</td>
<td></td>
</tr>
<tr>
<td>(WV Code Chapter 62)</td>
<td></td>
</tr>
<tr>
<td>Fund 6386 FY 2018 Org 0620</td>
<td></td>
</tr>
<tr>
<td>1 Personal Services and</td>
<td></td>
</tr>
<tr>
<td>2 Employee Benefits............................</td>
<td>00100 $ 152,000</td>
</tr>
<tr>
<td>3 Unclassified</td>
<td>09900 750</td>
</tr>
<tr>
<td>4 Current Expenses..............................</td>
<td>13000 1,846,250</td>
</tr>
<tr>
<td>5 Repairs and Alterations........................</td>
<td>06400 1,000</td>
</tr>
<tr>
<td>6 Total..........................................</td>
<td>$ 2,000,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>231-Division of Justice and Community Services –</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>\textit{Court Security Fund}</td>
<td></td>
</tr>
<tr>
<td>(WV Code Chapter 51)</td>
<td></td>
</tr>
<tr>
<td>Fund 6804 FY 2018 Org 0620</td>
<td></td>
</tr>
<tr>
<td>1 Personal Services and</td>
<td></td>
</tr>
<tr>
<td>2 Employee Benefits............................</td>
<td>00100 $ 21,865</td>
</tr>
<tr>
<td>3 Current Expenses..............................</td>
<td>13000 1,478,135</td>
</tr>
<tr>
<td>4 Total..........................................</td>
<td>$ 1,500,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>232-Division of Justice and Community Services –</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>\textit{Second Chance Driver’s License Program Account}</td>
<td></td>
</tr>
<tr>
<td>(WV Code Chapter 17B)</td>
<td></td>
</tr>
<tr>
<td>Fund 6810 FY 2018 Org 0620</td>
<td></td>
</tr>
<tr>
<td>1 Current Expenses..............................</td>
<td>13000 $ 25,000</td>
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</tbody>
</table>

**DEPARTMENT OF REVENUE**

<table>
<thead>
<tr>
<th>233-Division of Financial Institutions</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(WV Code Chapter 31A)</td>
<td></td>
</tr>
</tbody>
</table>
Fund 3041 FY 2018 Org 0303

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and</td>
<td>00100</td>
<td>$2,503,751</td>
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<tr>
<td>Employee Benefits</td>
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<tr>
<td>Unclassified</td>
<td>09900</td>
<td>1,000</td>
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<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>695,225</td>
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<td>Repairs and Alterations</td>
<td>06400</td>
<td>100</td>
</tr>
<tr>
<td>Equipment</td>
<td>07000</td>
<td>14,000</td>
</tr>
<tr>
<td>Other Assets</td>
<td>69000</td>
<td>15,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$3,229,076</td>
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</tbody>
</table>

234-Office of the Secretary –

State Debt Reduction Fund

(WV Code Chapter 29)

Fund 7007 FY 2018 Org 0701

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Directed Transfer</td>
<td>70000</td>
<td>$20,000,000</td>
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</tbody>
</table>
| The above appropriation for Directed Transfer shall be transferred to the Consolidated Public Retirement Board – West Virginia Public Employees Retirement System Employers Accumulation Fund (fund 2510).

235-Tax Division –

Cemetery Company Account

(WV Code Chapter 35)

Fund 7071 FY 2018 Org 0702

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and</td>
<td>00100</td>
<td>$23,459</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>7,717</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$31,176</td>
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</table>

236-Tax Division –

Special Audit and Investigative Unit

(WV Code Chapter 11)
Fund 7073 FY 2018 Org 0702

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>00100</td>
<td>$655,203</td>
</tr>
<tr>
<td>3</td>
<td>Unclassified</td>
<td>09900</td>
<td>9,500</td>
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<tr>
<td>4</td>
<td>Current Expenses</td>
<td>13000</td>
<td>273,297</td>
</tr>
<tr>
<td>5</td>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>7,000</td>
</tr>
<tr>
<td>6</td>
<td>Equipment</td>
<td>07000</td>
<td>5,000</td>
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<tr>
<td>7</td>
<td>Total</td>
<td></td>
<td>$950,000</td>
</tr>
</tbody>
</table>

237-Tax Division –

Wine Tax Administration Fund

(WV Code Chapter 60)

Fund 7087 FY 2018 Org 0702

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>00100</td>
<td>$254,162</td>
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<tr>
<td>3</td>
<td>Current Expenses</td>
<td>13000</td>
<td>5,406</td>
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<td>4</td>
<td>Total</td>
<td></td>
<td>$259,568</td>
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</tbody>
</table>

238-Tax Division –

Reduced Cigarette Ignition Propensity Standard and Fire Prevention Act Fund

(WV Code Chapter 47)

Fund 7092 FY 2018 Org 0702

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Current Expenses</td>
<td>13000</td>
<td>$35,000</td>
</tr>
<tr>
<td>2</td>
<td>Equipment</td>
<td>07000</td>
<td>15,000</td>
</tr>
<tr>
<td>3</td>
<td>Total</td>
<td></td>
<td>$50,000</td>
</tr>
</tbody>
</table>

239-Tax Division –

Local Sales Tax and Excise Tax Administration Fund
(WV Code Chapter 11)

Fund 7099 FY 2018 Org 0702

1 Personal Services and Employee Benefits................. 00100 $ 1,508,968
2 Unclassified ................................... 09900 10,000
3 Current Expenses ........................... 13000 784,563
4 Repairs and Alterations................. 06400 1,000
5 Equipment...................................... 07000 5,000
6 Total.........................................   $ 2,309,531

240-State Budget Office –

Public Employees Insurance Reserve Fund

(WV Code Chapter 11B)

Fund 7400 FY 2018 Org 0703

1 Public Employees Insurance Reserve Fund – Transfer .......... 90300 $ 6,800,000
2 The above appropriation for Public Employees Insurance Reserve Fund – Transfer shall be transferred to the Medical Services Trust Fund (fund 5185, org 0511) for expenditure.

241-State Budget Office –

Public Employees Insurance Agency Financial Stability Fund

(WV Code Chapter 11B)

Fund 7401 FY 2018 Org 0703

1 Retiree Premium Offset ............... 80101 $ 5,000,000
2 PEIA Reserve................................. 80102 10,000,000
3 Total.........................................   $15,000,000
4 The above appropriation shall be transferred to special revenue funds to be utilized by the West Virginia Public
Employees Insurance Agency for the purposes of permitting the PEIA Finance Board to offset $5 million in retiree premium increases. Additionally, $10 million will be put into a reserve fund to stabilize and preserve the future solvency of PEIA. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

**242-Insurance Commissioner –**

**Examination Revolving Fund**

(WV Code Chapter 33)

Fund 7150 FY 2018 Org 0704

| 1 | Personal Services and Employee Benefits.......... | 00100 | $ 721,117 |
| 2 | Current Expenses........................... | 13000 | 1,357,201 |
| 3 | Repairs and Alterations.................. | 06400 | 3,000 |
| 4 | Equipment...................................... | 07000 | 81,374 |
| 5 | Buildings........................................ | 25800 | 8,289 |
| 6 | Other Assets................................... | 69000 | 11,426 |
| 7 | Total......................................... |   | $ 2,182,407 |

**243-Insurance Commissioner –**

**Consumer Advocate**

(WV Code Chapter 33)

Fund 7151 FY 2018 Org 0704

| 1 | Personal Services and Employee Benefits.......... | 00100 | $ 552,228 |
| 2 | Current Expenses........................... | 13000 | 202,152 |
| 3 | Repairs and Alterations.................. | 06400 | 5,000 |
| 4 | Equipment...................................... | 07000 | 34,225 |
| 5 | Buildings........................................ | 25800 | 4,865 |
| 6 | Other Assets................................... | 69000 | 19,460 |
| 7 | Total......................................... |   | $ 817,930 |
### 244-Insurance Commissioner –

**Insurance Commission Fund**

(WV Code Chapter 33)

Fund 7152 FY 2018 Org 0704

<table>
<thead>
<tr>
<th>Item</th>
<th>Account</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>13000</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>06400</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>07000</td>
</tr>
<tr>
<td>5</td>
<td>Buildings</td>
<td>25800</td>
</tr>
<tr>
<td>6</td>
<td>Other Assets</td>
<td>69000</td>
</tr>
<tr>
<td>7</td>
<td>Total</td>
<td></td>
</tr>
</tbody>
</table>

### 245-Insurance Commissioner –

**Workers’ Compensation Old Fund**

(WV Code Chapter 23)

Fund 7162 FY 2018 Org 0704

<table>
<thead>
<tr>
<th>Item</th>
<th>Account</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Employee Benefits</td>
<td>01000</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>13000</td>
</tr>
<tr>
<td>3</td>
<td>Total</td>
<td></td>
</tr>
</tbody>
</table>

### 246-Insurance Commissioner –

**Workers’ Compensation Uninsured Employers’ Fund**

(WV Code Chapter 23)

Fund 7163 FY 2018 Org 0704

<table>
<thead>
<tr>
<th>Item</th>
<th>Account</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Current Expenses</td>
<td>13000</td>
</tr>
</tbody>
</table>

### 247-Insurance Commissioner –

**Self-Insured Employer Guaranty Risk Pool**
(WV Code Chapter 23)

Fund 7164 FY 2018 Org 0704

1 Current Expenses ......................... 13000 $ 9,000,000

248-Insurance Commissioner –

Self-Insured Employer Security Risk Pool

(WV Code Chapter 23)

Fund 7165 FY 2018 Org 0704

1 Current Expenses ......................... 13000 $14,000,000

249-Municipal Bond Commission

(WV Code Chapter 13)

Fund 7253 FY 2018 Org 0706

1 Personal Services and
2 Employee Benefits ....................... 00100 $ 247,523
3 Current Expenses ......................... 13000 144,844
4 Equipment .................................. 07000 100
5 Total .......................................... $ 392,467

250-Racing Commission –

Relief Fund

(WV Code Chapter 19)

Fund 7300 FY 2018 Org 0707

1 Medical Expenses – Total ............... 24500 $ 57,000

2 The total amount of this appropriation shall be paid from
3 the special revenue fund out of collections of license fees
4 and fines as provided by law.
No expenditures shall be made from this fund except for hospitalization, medical care and/or funeral expenses for persons contributing to this fund.

### 251-Racing Commission –

*Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2018 Org 0707

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$256,665</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>13000</td>
<td>93,335</td>
</tr>
<tr>
<td>3</td>
<td>Other Assets</td>
<td>69000</td>
<td>5,000</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td></td>
<td>$355,000</td>
</tr>
</tbody>
</table>

### 252-Racing Commission –

*General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2018 Org 0707

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$2,271,339</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>13000</td>
<td>566,248</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>7,000</td>
</tr>
<tr>
<td>4</td>
<td>Other Assets</td>
<td>69000</td>
<td>50,000</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td></td>
<td>$2,894,587</td>
</tr>
</tbody>
</table>

### 253-Racing Commission –

*Administration, Promotion, Education, Capital Improvement and Greyhound Adoption Programs*

*to include Spaying and Neutering Account*

(WV Code Chapter 19)
### Fund 7307 FY 2018 Org 0707

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Account</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$864,474</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>13000</td>
<td>214,406</td>
</tr>
<tr>
<td>3</td>
<td>Other Assets</td>
<td>69000</td>
<td>200,000</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td></td>
<td>$1,278,880</td>
</tr>
</tbody>
</table>

#### 254-Alcohol Beverage Control Administration –

**Wine License Special Fund**

(WV Code Chapter 60)

### Fund 7351 FY 2018 Org 0708

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Account</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$122,339</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>13000</td>
<td>69,186</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>7,263</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>07000</td>
<td>10,000</td>
</tr>
<tr>
<td>5</td>
<td>Buildings</td>
<td>25800</td>
<td>100,000</td>
</tr>
<tr>
<td>6</td>
<td>Other Assets</td>
<td>69000</td>
<td>100</td>
</tr>
<tr>
<td>7</td>
<td>Total</td>
<td></td>
<td>$308,888</td>
</tr>
</tbody>
</table>

To the extent permitted by law, four classified exempt positions shall be provided from Personal Services and Employee Benefits appropriation for field auditors.

#### 255-Alcohol Beverage Control Administration

(WV Code Chapter 60)

### Fund 7352 FY 2018 Org 0708

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Account</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$5,413,237</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>13000</td>
<td>2,890,577</td>
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<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>91,000</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>07000</td>
<td>108,000</td>
</tr>
<tr>
<td>5</td>
<td>Buildings</td>
<td>25800</td>
<td>375,100</td>
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<tr>
<td>6</td>
<td>Purchase of Supplies for Resale</td>
<td>41900</td>
<td>72,500,000</td>
</tr>
<tr>
<td>7</td>
<td>Transfer Liquor Profits and Taxes</td>
<td>42500</td>
<td>20,800,000</td>
</tr>
</tbody>
</table>
The total amount of these appropriations shall be paid from a special revenue fund out of liquor revenues and any other revenues available.

The above appropriations include the salary of the commissioner and the salaries, expenses and equipment of administrative offices, warehouses and inspectors.

The above appropriations include funding for the Tobacco/Alcohol Education Program.

There is hereby appropriated from liquor revenues, in addition to the above appropriations as needed, the necessary amount for the purchase of liquor as provided by law and the remittance of profits and taxes to the General Revenue Fund.

256-State Athletic Commission Fund
(WV Code Chapter 29)
Fund 7009 FY 2018 Org 0933
1 Current Expenses ......................... 13000 $ 30,000

DEPARTMENT OF TRANSPORTATION

257-Division of Motor Vehicles –

Dealer Recovery Fund
(WV Code Chapter 17)
Fund 8220 FY 2018 Org 0802
1 Current Expenses ......................... 13000 $ 189,000
### 258-Division of Motor Vehicles –

**Motor Vehicle Fees Fund**

(WV Code Chapter 17B)

Fund 8223 FY 2018 Org 0802

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$3,362,799</td>
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<tr>
<td>Current Expenses</td>
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<td>4,374,083</td>
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<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>16,000</td>
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<tr>
<td>Equipment</td>
<td>07000</td>
<td>75,000</td>
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<td>Other Assets</td>
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<td>10,000</td>
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<tr>
<td>BRIM Premium</td>
<td>91300</td>
<td>73,629</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$ 7,911,511</strong></td>
</tr>
</tbody>
</table>

### 259-Division of Highways –

**A. James Manchin Fund**

(WV Code Chapter 22)

Fund 8319 FY 2018 Org 0803

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td><strong>$ 1,650,000</strong></td>
</tr>
</tbody>
</table>

### DEPARTMENT OF VETERANS’ ASSISTANCE

#### 260-Veterans’ Facilities Support Fund

(WV Code Chapter 9A)

Fund 6703 FY 2018 Org 0613

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td><strong>$ 94,210</strong></td>
</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td><strong>2,255,997</strong></td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>10,000</td>
</tr>
<tr>
<td>Equipment</td>
<td>07000</td>
<td>10,000</td>
</tr>
<tr>
<td>Other Assets</td>
<td>69000</td>
<td>10,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$ 2,380,207</strong></td>
</tr>
</tbody>
</table>
### 261-Department of Veterans’ Assistance –

**WV Veterans’ Home –**

*Special Revenue Operating Fund*

(WV Code Chapter 9A)

**Fund 6754 FY 2018 Org 0618**

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>$700,000</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>$50,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$750,000</strong></td>
</tr>
</tbody>
</table>

**BUreau of Senior Services**

**262-Bureau of Senior Services –**

*Community Based Service Fund*

(WV Code Chapter 22)

**Fund 5409 FY 2018 Org 0508**

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$151,290</td>
</tr>
<tr>
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<td>13000</td>
<td>$10,348,710</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$10,500,000</strong></td>
</tr>
</tbody>
</table>

The total amount of these appropriations are funded from annual table game license fees to enable the aged and disabled citizens of West Virginia to stay in their homes through the provision of home and community-based services.

### Higher Education Policy Commission

**263-Higher Education Policy Commission –**

*System –*

*Tuition Fee Capital Improvement Fund*
### (Capital Improvement and Bond Retirement Fund)

#### Control Account

(WV Code Chapters 18 and 18B)

**Fund 4903 FY 2018 Org 0442**

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt Service</td>
<td>04000</td>
<td>$27,716,974</td>
</tr>
<tr>
<td>General Capital Expenditures</td>
<td>30600</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Facilities Planning and Administration</td>
<td>38600</td>
<td>421,082</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$33,138,056</strong></td>
</tr>
</tbody>
</table>

The total amount of these appropriations shall be paid from the Special Capital Improvement Fund created in W.Va. Code §18B-10-8. Projects are to be paid on a cash basis and made available on July 1.

The above appropriations, except for Debt Service, may be transferred to special revenue funds for capital improvement projects at the institutions.

### 264-Tuition Fee Revenue Bond Construction Fund

(WV Code Chapters 18 and 18B)

**Fund 4906 FY 2018 Org 0442**

Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

The appropriation shall be paid from available unexpended cash balances and interest earnings accruing to the fund. The appropriation shall be expended at the discretion of the Higher Education Policy Commission and the funds may be allocated to any institution within the system.
The total amount of this appropriation shall be paid from the unexpended proceeds of revenue bonds previously issued pursuant to W.Va. Code §18-12B-8, which have since been refunded.

**265-Community and Technical College –**

*Capital Improvement Fund*  
(WV Code Chapter 18B)

Fund 4908 FY 2018 Org 0442

<table>
<thead>
<tr>
<th>Account Description</th>
<th>FY 2018 Budget</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and</td>
<td>00100</td>
<td>$10,274,340</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>13000</td>
<td>4,524,300</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>06400</td>
<td>425,000</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>07000</td>
<td>512,000</td>
</tr>
<tr>
<td>Equipment</td>
<td>25800</td>
<td>150,000</td>
</tr>
<tr>
<td>Buildings</td>
<td>69000</td>
<td>50,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$15,935,640</td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the appropriation for Capital Improvements – Total (fund 4908, appropriation 95800) at the close of fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

The total amount of this appropriation shall be paid from the sale of the 2009 Series A Community and Technical College Capital Improvement Revenue Bonds and anticipated interest earnings.

**266-West Virginia University –**

*West Virginia University Health Sciences Center*  
(WV Code Chapters 18 and 18B)

Fund 4179 FY 2018 Org 0463

<table>
<thead>
<tr>
<th>Account Description</th>
<th>FY 2018 Budget</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and</td>
<td>00100</td>
<td>$10,274,340</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>13000</td>
<td>4,524,300</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>06400</td>
<td>425,000</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>07000</td>
<td>512,000</td>
</tr>
<tr>
<td>Equipment</td>
<td>25800</td>
<td>150,000</td>
</tr>
<tr>
<td>Buildings</td>
<td>69000</td>
<td>50,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$15,935,640</td>
</tr>
</tbody>
</table>
### MISCELLANEOUS BOARDS AND COMMISSIONS

#### 267-Board of Barbers and Cosmetologists –

**Barbers and Beauticians Special Fund**

(WV Code Chapters 16 and 30)

Fund 5425 FY 2018 Org 0505

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>00100</td>
<td>$504,497</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>$239,969</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$744,466</td>
</tr>
</tbody>
</table>

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Board of Barbers and Cosmetologists as provided by law.

#### 268-Hospital Finance Authority –

**Hospital Finance Authority Fund**

(WV Code Chapter 16)

Fund 5475 FY 2018 Org 0509

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>00100</td>
<td>$85,981</td>
</tr>
<tr>
<td>Unclassified</td>
<td>09900</td>
<td>$1,450</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>$57,740</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$145,171</td>
</tr>
</tbody>
</table>

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by Article 29A, Chapter 16 of the Code.

#### 269-WV State Board of Examiners for Licensed Practical Nurses –

**Licensed Practical Nurses**

(WV Code Chapter 30)
### Fund 8517 FY 2018 Org 0906

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$430,324</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>13000</td>
<td>$53,133</td>
</tr>
<tr>
<td>3</td>
<td>Total</td>
<td></td>
<td>$483,457</td>
</tr>
</tbody>
</table>

#### 270-WV Board of Examiners for Registered Professional Nurses –

**Registered Professional Nurses**

(WV Code Chapter 30)

### Fund 8520 FY 2018 Org 0907

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$1,081,694</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>13000</td>
<td>$295,339</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>$3,000</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>07000</td>
<td>$19,500</td>
</tr>
<tr>
<td>5</td>
<td>Other Assets</td>
<td>69000</td>
<td>$4,500</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td></td>
<td>$1,404,033</td>
</tr>
</tbody>
</table>

#### 271-Public Service Commission

(WV Code Chapter 24)

### Fund 8623 FY 2018 Org 0926

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$11,807,314</td>
</tr>
<tr>
<td>2</td>
<td>Unclassified</td>
<td>09900</td>
<td>$147,643</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>13000</td>
<td>$2,594,398</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>$55,000</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>07000</td>
<td>$160,000</td>
</tr>
<tr>
<td>6</td>
<td>PSC Weight Enforcement</td>
<td>34500</td>
<td>$4,370,453</td>
</tr>
<tr>
<td>7</td>
<td>Debt Payment/Capital Outlay</td>
<td>52000</td>
<td>$350,000</td>
</tr>
<tr>
<td>8</td>
<td>BRIM Premium</td>
<td>91300</td>
<td>$150,040</td>
</tr>
<tr>
<td>9</td>
<td>Total</td>
<td></td>
<td>$19,634,848</td>
</tr>
</tbody>
</table>

The total amount of these appropriations shall be paid from a special revenue fund out of collections for special
license fees from public service corporations as provided by law.

The Public Service Commission is authorized to transfer up to $500,000 from this fund to meet the expected deficiencies in the Motor Carrier Division (fund 8625, org 0926) due to the amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled House Bill Number 2715, Regular Session, 1997.

272-Public Service Commission –
Gas Pipeline Division –

Public Service Commission Pipeline Safety Fund

(WV Code Chapter 24B)

<table>
<thead>
<tr>
<th>Fund</th>
<th>FY 2018</th>
<th>Org</th>
</tr>
</thead>
<tbody>
<tr>
<td>8624</td>
<td></td>
<td>0926</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$284,198</td>
</tr>
<tr>
<td>Unclassified</td>
<td>09900</td>
<td>3,851</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>93,115</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>4,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$385,164</td>
</tr>
</tbody>
</table>

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over pipeline companies as provided by law.

273-Public Service Commission –
Motor Carrier Division

(WV Code Chapter 24A)

<table>
<thead>
<tr>
<th>Fund</th>
<th>FY 2018</th>
<th>Org</th>
</tr>
</thead>
<tbody>
<tr>
<td>8625</td>
<td></td>
<td>0926</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$2,243,526</td>
</tr>
<tr>
<td>Unclassified</td>
<td>09900</td>
<td>29,233</td>
</tr>
</tbody>
</table>
The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over motor carriers as provided by law.

274-Public Service Commission –

Consumer Advocate Fund

(WV Code Chapter 24)

Fund 8627 FY 2018 Org 0926

1 Personal Services and
2 Employee Benefits ................... 00100 $ 743,372
3 Current Expenses ................... 13000 276,472
4 Equipment ................... 07000 9,872
5 BRIM Premium ................... 91300 4,660
6 Total ................... $ 1,034,376

275-Real Estate Commission –

Real Estate License Fund

(WV Code Chapter 30)

Fund 8635 FY 2018 Org 0927

1 Personal Services and
2 Employee Benefits ................... 00100 $ 582,413
3 Current Expenses ................... 13000 285,622
4 Repairs and Alterations ............... 06400 5,000
5 Equipment ................... 07000 10,000
6 Total ................... $ 883,035
The total amount of these appropriations shall be paid out of collections of license fees as provided by law.

276-WV Board of Examiners for Speech-Language Pathology and Audiology –
Speech-Language Pathology and Audiology Operating Fund
(WV Code Chapter 30)

Fund 8646 FY 2018 Org 0930

| 1 | Personal Services and Employee Benefits | 00100 | $73,190 |
| 2 | Current Expenses | 13000 | 65,623 |
| 4 | Total | | $138,813 |

277-WV Board of Respiratory Care –
Board of Respiratory Care Fund
(WV Code Chapter 30)

Fund 8676 FY 2018 Org 0935

| 1 | Personal Services and Employee Benefits | 00100 | $79,643 |
| 2 | Current Expenses | 13000 | 51,047 |
| 3 | Repairs and Alterations | 06400 | 400 |
| 5 | Total | | $131,090 |

278-WV Board of Licensed Dietitians –
Dietitians Licensure Board Fund
(WV Code Chapter 30)

Fund 8680 FY 2018 Org 0936

| 1 | Personal Services and Employee Benefits | 00100 | $15,950 |
| 2 | Current Expenses | 13000 | 17,050 |
| 4 | Total | | $33,000 |
279-Massage Therapy Licensure Board –

**Massage Therapist Board Fund**

(WV Code Chapter 30)

Fund 8671 FY 2018 Org 0938

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$104,418</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>13000</td>
<td>$22,648</td>
</tr>
<tr>
<td>3</td>
<td>Total</td>
<td></td>
<td>$127,066</td>
</tr>
</tbody>
</table>

280-Economic Development Authority –

**Cacapon and Beech Fork State Parks –**

**Lottery Revenue Debt Service**

Fund 9067 FY 2018 Org 0944

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Debt Service</td>
<td>04000</td>
<td>$1,400,000</td>
</tr>
<tr>
<td>2</td>
<td>The above appropriation for Debt Service (fund 9067, appropriation 04000) shall be paid from the cash balance remaining in the Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund (9067).</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

281-Board of Medicine –

**Medical Licensing Board Fund**

(WV Code Chapter 30)

Fund 9070 FY 2018 Org 0945

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$1,187,752</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>13000</td>
<td>$988,789</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>$20,000</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td></td>
<td>$2,196,541</td>
</tr>
</tbody>
</table>
282-West Virginia Enterprise Resource Planning Board –

Enterprise Resource Planning System Fund

(WV Code Chapter 12)

Fund 9080 FY 2018 Org 0947

<table>
<thead>
<tr>
<th>1</th>
<th>Personal Services and</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Employee Benefits ..........</td>
</tr>
<tr>
<td>3</td>
<td>Unclassified ..........</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses ..........</td>
</tr>
<tr>
<td>5</td>
<td>Repairs and Alterations ..........</td>
</tr>
<tr>
<td>6</td>
<td>Equipment ..........</td>
</tr>
<tr>
<td>7</td>
<td>Buildings ..........</td>
</tr>
<tr>
<td>8</td>
<td>Other Assets ..........</td>
</tr>
<tr>
<td>9</td>
<td>Total ...............</td>
</tr>
</tbody>
</table>

283-Board of Treasury Investments –

Board of Treasury Investments Fee Fund

(WV Code Chapter 12)

Fund 9152 FY 2018 Org 0950

<table>
<thead>
<tr>
<th>1</th>
<th>Personal Services and</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Employee Benefits ..........</td>
</tr>
<tr>
<td>3</td>
<td>Unclassified ..........</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses ..........</td>
</tr>
<tr>
<td>5</td>
<td>BRIM Premium ..........</td>
</tr>
<tr>
<td>6</td>
<td>Fees of Custodians, Fund Advisors and Fund Managers ..........</td>
</tr>
<tr>
<td>8</td>
<td>Total ...............</td>
</tr>
</tbody>
</table>

There is hereby appropriated from this fund, in addition to the above appropriation if needed, an amount of funds necessary for the Board of Treasury Investments to pay the fees and expenses of custodians, fund advisors and fund managers for the consolidated fund of the State as provided in Article 6C, Chapter 12 of the Code.
The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

Total TITLE II, Section 3 – Other Funds

(Including claims against the state)... $1,491,793,726

Sec. 4. Appropriations from lottery net profits. — Net profits of the lottery are to be deposited by the Director of the Lottery to the following accounts in the amounts indicated. The Director of the Lottery shall prorate each deposit of net profits in the proportion the appropriation for each account bears to the total of the appropriations for all accounts.

After first satisfying the requirements for Fund 2252, Fund 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the Director of the Lottery shall make available from the remaining net profits of the lottery any amounts needed to pay debt service for which an appropriation is made for Fund 9065, Fund 4297, Fund 3390, and Fund 3514 and is authorized to transfer any such amounts to Fund 9065, Fund 4297, Fund 3390, and Fund 3514 for that purpose. Upon receipt of reimbursement of amounts so transferred, the Director of the Lottery shall deposit the reimbursement amounts to the following accounts as required by this section.

284-Education, Arts, Sciences and Tourism – Debt Service Fund

(WV Code Chapter 5)

Fund 2252 FY 2018 Org 0211

<table>
<thead>
<tr>
<th>Appropriation Funds</th>
<th>Lottery Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt Service – Total</td>
<td>$10,000,000</td>
</tr>
</tbody>
</table>
285-West Virginia Development Office –

West Virginia Tourism Office

(WV Code Chapter 5B)

Fund 3067 FY 2018 Org 0304

<table>
<thead>
<tr>
<th>Item Description</th>
<th>FY 2018 Org</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tourism – Telemarketing Center</td>
<td>46300</td>
<td>$ 82,080</td>
</tr>
<tr>
<td>Tourism – Advertising (R)</td>
<td>61800</td>
<td>2,422,407</td>
</tr>
<tr>
<td>Tourism – Operations (R)</td>
<td>66200</td>
<td>3,951,872</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$ 6,456,359</td>
</tr>
</tbody>
</table>

From the above appropriation for Tourism – Operations (fund 3067, appropriation 66200) funding shall be provided for the operation of the WV Film Office.

Any unexpended balances remaining in the appropriations for Tourism – Advertising (fund 3067, appropriation 61800), and Tourism – Operations (fund 3067, appropriation 66200) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

286-Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2018 Org 0310

<table>
<thead>
<tr>
<th>Item Description</th>
<th>FY 2018 Org</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$ 2,090,941</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>23,000</td>
</tr>
<tr>
<td>Pricketts Fort State Park</td>
<td>32400</td>
<td>106,560</td>
</tr>
<tr>
<td>Non-Game Wildlife (R)</td>
<td>52700</td>
<td>365,540</td>
</tr>
<tr>
<td>State Parks and Recreation Advertising (R)</td>
<td>61900</td>
<td>494,578</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$ 3,080,619</td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the appropriations for Unclassified (fund 3267, appropriation 09900), Capital Outlay – Parks (fund 3267, appropriation...
12 28800), Non-Game Wildlife (fund 3267, appropriation 13 52700), and State Parks and Recreation Advertising (fund 14 3267, appropriation 61900) at the close of the fiscal year 15 2017 are hereby reappropriated for expenditure during the 16 fiscal year 2018.

287-State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2018 Org 0402

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>FBI Checks</td>
<td>37200</td>
<td>$108,860</td>
</tr>
<tr>
<td>Vocational Education</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equipment Replacement</td>
<td>39300</td>
<td>$800,000</td>
</tr>
<tr>
<td>Assessment Program (R)</td>
<td>39600</td>
<td>$2,946,059</td>
</tr>
<tr>
<td>21st Century Technology</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Infrastructure Network Tools and Support (R)</td>
<td>93300</td>
<td>$1,415,1287</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$18,006,206</td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the appropriations for Unclassified (fund 3951, appropriation 13 09900), Current Expenses (fund 3951, appropriation 12 13000), Assessment Program (fund 3951, appropriation 13 39600), and 21st Century Technology Infrastructure Network Tools and Support (fund 3951, appropriation 13 93300) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

288-State Department of Education –

School Building Authority –

Debt Service Fund

(WV Code Chapter 18)

Fund 3963 FY 2018 Org 0402

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
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The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18.

289-Department of Education and the Arts –

Office of the Secretary –

Control Account –

Lottery Education Fund

(WV Code Chapter 5F)

Fund 3508 FY 2018 Org 0431

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
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<th>Fiscal Year 2018 Amount</th>
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<td>Unclassified (R)</td>
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<td>Current Expenses</td>
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<td>3</td>
<td>Commission for National and Community Service</td>
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<td>4</td>
<td>Statewide STEM</td>
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<td>5</td>
<td>21st Century Academy</td>
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<td>6</td>
<td>Literacy Project (R)</td>
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Any unexpended balances remaining in the appropriations for Unclassified (fund 3508, appropriation 09900), Governor’s Honors Academy (fund 3508, appropriation 47800), Arts Programs (fund 3508, appropriation 50000), and Literacy Project (fund 3508, appropriation 89900) at the close of fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

290-Division of Culture and History –

Lottery Education Fund

(WV Code Chapter 29)

Fund 3534 FY 2018 Org 0432
<table>
<thead>
<tr>
<th>#</th>
<th>Activity Description</th>
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<tr>
<td>1</td>
<td>Huntington Symphony</td>
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<td>Preservation WV (R)</td>
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<td>3</td>
<td>Fairs and Festivals (R)</td>
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<td>4</td>
<td>Archeological Curation/Capital</td>
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<td>Improvements (R)</td>
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<td>6</td>
<td>Historic Preservation Grants (R)</td>
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<td>7</td>
<td>West Virginia Public Theater</td>
<td>31200</td>
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<td>8</td>
<td>Greenbrier Valley Theater</td>
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<td>Theater Arts of West Virginia</td>
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<td>Marshall Artists Series</td>
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<td>Arts Program (R)</td>
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<td>14</td>
<td>Save the Music</td>
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<td>Contemporary American</td>
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<td>16</td>
<td>Theater Festival</td>
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<td>Independence Hall</td>
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<td>18</td>
<td>Mountain State Forest Festival</td>
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<td>Wheeling Symphony</td>
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<td>21</td>
<td>Appalachian Children’s Chorus</td>
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<td>22</td>
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<td>$3,499,632</td>
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</table>

23 From the above appropriation for Preservation West Virginia (fund 3534, appropriation 09200) funding shall be provided to the African-American Heritage Family Tree Museum (Fayette) $2,673, Aracoma Story (Logan) $29,703, Arts Monongahela (Monongalia) $11,881, Barbour County Arts and Humanities Council $891, Beckley Main Street (Raleigh) $2,970, Buffalo Creek Memorial (Logan) $2,970, Carnegie Hall (Greenbrier) $46,899, Ceredo Historical Society (Wayne) $1,166, Ceredo Kenova Railroad Museum (Wayne) $1,166, Ceredo Museum (Wayne) $720, Children's Theatre of Charleston (Kanawha) $3,127, Chuck Mathena Center (Mercer) $62,532, Collis P. Huntington Railroad Historical Society (Cabell) $5,940, Country Music Hall of Fame and Museum (Marion) $4,158, First Stage Children's Theater Company $1,166, Flannigan Murrell House (Summers) $3,780, Fort Ashby Fort (Mineral) $891, Fort
New Salem (Harrison) $2,198, Fort Randolph (Mason) $2,970, General Adam Stephen Memorial Foundation (Berkeley) $11,005, Grafton Mother's Day Shrine Committee (Taylor) $5,049, Hardy County Tour and Crafts Association $11,881, Heartwood in the Hills (Calhoun) $5,040, Heritage Farm Museum & Village (Cabell) $29,703, Historic Fayette Theater (Fayette) $3,267, Historic Middleway Conservancy (Jefferson) $594, Jefferson County Black History Preservation Society $2,970, Jefferson County Historical Landmark Commission $4,752, Maddie Carroll House (Cabell) $4,455, Marshall County Historical Society $5,049, McCoy Theater (Hardy) $11,881, Morgantown Theater Company (Monongalia) $11,881, Mountaineer Boys' State (Lewis) $5,940, Nicholas Old Main Foundation (Nicholas) $1,188, Norman Dillon Farm Museum (Berkeley) $5,940, Old Opera House Theater Company (Jefferson) $8,910, Parkersburg Arts Center (Wood) $11,881, Pocahontas Historic Opera House $3,564, Raleigh County All Wars Museum $5,940, Rhododendron Girl's State (Ohio) $5,940, Roane County 4-H and FFA Youth Livestock Program $2,970, Scottish Heritage Society/N. Central WV (Harrison) $2,970, Society for the Preservation of McGrew House (Preston) $2,079, Southern West Virginia Veterans' Museum $3,393, Summers County Historic Landmark Commission $2,970, Those Who Served War Museum (Mercer) $2,376, Three Rivers Avian Center (Summers) $5,310, Tug Valley Arts Council (Mingo) $2,970, Tug Valley Chamber of Commerce Coal House (Mingo) $1,188, Tunnelton Historical Society (Preston) $1,188, Veterans Committee for Civic Improvement of Huntington (Wayne) $2,970, West Virginia Museum of Glass (Lewis) $3,713, West Virginia Music Hall of Fame (Kanawha) $20,792, YMCA Camp Horseshoe (Tucker) $59,405, Youth Museum of Southern West Virginia (Raleigh) $7,128, Z.D. Ramsdell House (Wayne) $720.

From the above appropriation for Fairs and Festivals (fund 3534, appropriation 12200) funding shall be provided to A Princeton 4th (Mercer) $1,800, African-American Cultural Heritage Festival (Jefferson) $2,970, Alderson 4th of July
Celebration (Greenbrier) $2,970, Allegheny Echo (Pocahontas) $4,456, Alpine Festival/Leaf Peepers Festival (Tucker) $6,683, American Civil War (Grant) $3,127, American Legion Post 8 Veterans Day Parade (McDowell) $1,250, Angus Beef and Cattle Show (Lewis) $891, Annual Birch River Days (Nicholas) $1,296, Annual Don Redman Heritage Concert & Awards (Jefferson) $938, Annual Ruddle Park Jamboree (Pendleton) $4,690, Antique Market Fair (Lewis) $1,188, Apollo Theater-Summer Program (Berkeley) $1,188, Apple Butter Festival (Morgan) $3,564, Arkansaw Homemaker's Heritage Weekend (Hardy) $2,079, Armed Forces Day-South Charleston (Kanawha) $1,782, Arthurdale Heritage New Deal Festival (Preston) $2,970, Athens Town Fair (Mercer) $1,188, Augusta Fair (Randolph) $2,970, Autumn Harvest Fest (Monroe) $2,448, Barbour County Fair $14,851, Barboursville Octoberfest (Cabell) $2,970, Bass Festival (Pleasants) $1,099, Battelle District Fair (Monongalia) $2,970, Battle of Dry Creek (Greenbrier) $891, Battle of Point Pleasant Memorial Committee (Mason) $2,970, Belle Town Fair (Kanawha) $2,673, Belleville Homecoming (Wood) $11,881, Bergoo Down Home Days (Webster) $1,485, Berkeley County Youth Fair $10,990, Black Bear 4K Mountain Bike Race (Kanawha) $684, Black Heritage Festival (Harrison) $3,564, Black Walnut Festival (Roane) $5,940, Blast from the Past (Upshur) $1,440, Blue-Gray Reunion (Barbour) $2,079, Boone County Fair $5,940, Boone County Labor Day Celebration $2,376, Bradshaw Fall Festival (McDowell) $1,188, Brandonville Heritage Day (Preston) $1,048, Braxton County Fair $6,832, Braxton County Monster Fest / West Virginia Autumn Festival $1,485, Brooke County Fair $2,079, Bruceton Mills Good Neighbor Days (Preston) $1,188, Buckwheat Festival (Preston) $5,050, Buffalo 4th of July Celebration (Putnam) $400, Buffalo October Fest (Putnam) $3,240, Burlington Apple Harvest Festival (Mineral) $17,821, Burlington Pumpkin Harvest Festival (Raleigh) $2,970, Burnsville Harvest Festival (Braxton) $1,407, Cabell County Fair $5,940, Calhoun County Wood Festival $1,188, Campbell's Creek Community Fair (Kanawha) $1,485, Cape Coalwood
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<td>Ruritan 4th of July (Hampshire)</td>
<td>$684</td>
<td>Cass Homecoming</td>
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<tr>
<td>(Pocahontas)</td>
<td>$1,188</td>
<td>Cedarville Town Festival (Gilmer)</td>
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<td>$684, Celebration in the Park (Wood)</td>
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<td>Celebration of America (Monongalia)</td>
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<td>(Wayne)</td>
<td>$700</td>
<td>Chapmansville Apple Butter Festival (Logan)</td>
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<td>$684, Chapmanville Fire Department 4th of July (Logan)</td>
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<td>Charles Town Christmas Festival (Jefferson)</td>
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<tr>
<td>Charles Town Heritage Festival (Jefferson)</td>
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<td>Cherry River Festival (Nicholas)</td>
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<td>$2,970, Chief Logan State Park-Civil War Celebration</td>
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<td>Chilifest West Virginia State Chili Championship (Cabell)</td>
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<td>Christmas In Our Town (Marion)</td>
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<td>Dorcas Ice Cream Social (Grant)</td>
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<td>Elbert/Filbert Reunion Festival (McDowell)</td>
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<td>$891, Elkins Randolph County 4th of July Car Show (Randolph)</td>
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Gay Mountain Heritage Days (Wayne) $2,970, Fort Henry
Days (Ohio) $3,148, Fort Henry Living History (Ohio) $1,563, Fort New Salem Spirit of Christmas Festival (Harrison) $2,432, Frankford Autumnfest (Greenbrier) $2,970, Franklin Fishing Derby (Pendleton) $4,456, Freshwater Folk Festival (Greenbrier) $2,970, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) $2,970, Frontier Days (Harrison) $1,782, Frontier Fest/Canaan Valley (Taylor) $2,970, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) $1,485, Gassaway Days Celebration (Braxton) $2,970, Gilbert Elementary Fall Blast (Mingo) $2,188, Gilbert Kiwanis Harvest Festival (Mingo) $2,376, Gilbert Spring Fling (Mingo) $3,595, Gilmer County Farm Show $2,376, Grant County Arts Council $1,188, Grape Stomping Wine Festival (Nicholas) $1,188, Great Greenbrier River Race (Pocahontas) $5,940, Greater Quinwood Days (Greenbrier) $781, Guyandotte Civil War Days (Cabell) $5,940, Hamlin 4th of July Celebration (Lincoln) $2,970, Hampshire Civil War Celebration Days (Hampshire) $684, Hampshire County 4th of July Celebration $11,881, Hampshire County Fair $5,002, Hampshire Heritage Days (Hampshire) $2,376, Hancock County Oldtime Fair $2,970, Hardy County Commission - 4th of July $5,940, Hatfield McCoy Matewan Reunion Festival (Mingo) $12,330, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) $2,970, Heat'n the Hills Chilifest (Lincoln) $2,970, Heritage Craft Festival (Monroe) $1,044, Heritage Days Festival (Roane) $891, Hilltop Festival (Cabell) $684, Hilltop Festival of Lights (McDowell) $1,188, Hinton Railroad Days (Summers) $4,347, Holly River Festival (Webster) $891, Hometown Mountain Heritage Festival (Fayette) $2,432, Hundred 4th of July (Wetzel) $4,307, Hundred American Legion Earl Kiger Post Bluegrass Festival (Wetzel) $1,188, Hurricane 4th of July Celebration (Putnam) $2,970, Iaeger Town Fair (McDowell) $891, Irish Heritage Festival of West Virginia (Raleigh) $2,970, Irish Spring Festival (Lewis) $684, Italian Heritage Festival-Clarksburg (Harrison) $17,821, Jackson County Fair $2,970, Jamboree (Pocahontas) $2,970, Jane Lew Arts and Crafts Fair (Lewis)
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<td>Mountain Ruritan Pioneer Days (Hampshire)</td>
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<td>Henry Days Festival (Monroe)</td>
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<td>Community Fair (Harrison)</td>
<td>$1,485, Junior Heifer Preview</td>
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<td>Show (Lewis)</td>
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<td>$2,970, Keeper of the Mountains-Kayford (Kanawha)</td>
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<td>Festival (Wayne)</td>
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<td>$3,127, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley)</td>
<td>$2,813, Mannington District Fair (Marion)</td>
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<td>$684, Marion County FFA Farm Fest</td>
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<td>$1,485, Marmet Labor Day Celebration (Kanawha)</td>
<td>$3,078, Marshall County Antique Power Show</td>
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<td>Mason Dixon Festival (Monongalia) $4,158, Matewan Massacre Reenactment (Mingo)</td>
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<td>$5,004, Matewan-Magnolia Fair (Mingo) $15,932, McARTS-McDowell County</td>
<td>$11,881, McDowell County Fair $1,485, McGrew House History Day (Preston) $1,188, McNeill's Rangers (Mineral)</td>
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<td>$4,752, Meadow Bridge Hometown Festival (Fayette) $743,</td>
<td>$1,782, Mercer Meadow River Days Festival (Greenbrier)</td>
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<td>$1,782, Mercer County Fair $3,474, Mid Ohio Valley Antique Engine Festival (Wood)</td>
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<tr>
<td>Christmas in the Park (Cabell)</td>
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<td>Milton 4th of July</td>
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<tr>
<td>Festival (Calhoun)                                                                $1,188</td>
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<td>Molasses</td>
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<tr>
<td>Festival (Marshall)                                                               $2,376</td>
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<tr>
<td>Moundsville July 4th Celebration (Marshall)                                       $2,970</td>
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<tr>
<td>Mount Liberty Fall Festival (Barbour)                                           $1,485,</td>
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<tr>
<td>Mountain Fest (Monongalia)                                                       $11,881</td>
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<tr>
<td>Mountain Music Festival (Jefferson)                                              $2,970</td>
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<tr>
<td>Mountain State Apple Harvest Festival (Berkeley)                                  $4,456</td>
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<tr>
<td>Mountain State Arts &amp; Crafts Fair Cedar (Jackson)                                 $26,732</td>
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<tr>
<td>Multi-Cultural Festival of West Virginia (Kanawha)                                $4,158</td>
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<tr>
<td>Music and Barbecue - Banks District VFD (Upshur)                                   $1,278</td>
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<tr>
<td>New Cumberland Christmas Parade (Hancock)                                         $1,782</td>
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<td>New Cumberland 4th of July (Hancock)                                              $2,970</td>
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<tr>
<td>New River Bridge Day Festival (Fayette)                                           $23,762</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Nicholas County Fair                                                              $2,970</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nicholas County Potato Festival                                                   $2,079</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oglebay Festival (Ohio)                                                           $5,346</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Old Central City Fair (Cabell)                                                    $2,970</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Old Century City Fair (Jefferson)                                                 $1,425</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Ohio River Festival (Jackson)                                                     $5,346</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ohio Valley Beef Association (Wood)                                               $4,320</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ohio Valley Black Heritage Festival (Ohio) (Wood)                                 $3,267</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oglebay Festival (Ohio)                                                          $3,564</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oidgety City Park - Festival of Lights (Ohio)                                    $47,524</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Okean Heritage Festival                                                              $5,940</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Okean County Fair Country Fair                                                   $5,940</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ohio River Festival (Jackson)                                                     $4,320</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ohio Valley Beef Association (Wood)                                              $1,485</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Old Central City Fair (Cabell)                                                    $2,970</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Old Century City Fair (Jefferson)                                                 $1,425</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paden City Labor Day Festival (Wetzel)                                            $3,861</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Patty Fest (Monongalia)                                                          $8,754</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pax Reunion Committee (Fayette)                                                   $2,970</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pendleton County 4-H Weekend                                                       $1,188</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pendleton County Committee for Arts                                               $9,180</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Piedmont-Annual Back Street Festival                                             $5,940</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Event Name</td>
<td>Amount</td>
<td>Location/County</td>
<td></td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>------------</td>
<td>--------------------</td>
<td></td>
</tr>
<tr>
<td>(Mineral) $2,376, Pinch Reunion (Kanawha)</td>
<td>$891</td>
<td>Pine</td>
<td></td>
</tr>
<tr>
<td>Bluff Fall Festival (Harrison) $2,376, Pine Grove 4th of July Festival (Wetzel) $4,158</td>
<td>$891</td>
<td>Pine</td>
<td></td>
</tr>
<tr>
<td>Pineville Festival (Wyoming)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$3,564, Pleasants County Agriculture Youth Fair</td>
<td>$2,970</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Poca Heritage Days (Putnam) $1,782, Pocahontas County Pioneer Days $4,158</td>
<td>$1,782</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Point Pleasant Stern Wheel Regatta (Mason) $2,970</td>
<td>$2,970</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pratt Fall Festival (Kanawha) $1,485, Princeton Autumnfest (Mercer) $1,563</td>
<td>$2,970</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Princeton Street Fair (Mercer) $2,970, Putnam County Fair $2,970, Quartets on Parade (Hardy) $2,376</td>
<td>$3,127</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rand Community Center Festival (Kanawha) $1,485, Randolph County Community Arts Council $1,782</td>
<td>$2,970</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Randolph County Fair $4,158, Randolph County Ramp and Rails $1,188</td>
<td>$2,970</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ranson Christmas Festival (Jefferson) $2,970, Renick Liberty Festival (Greenbrier) $684</td>
<td>$8,910</td>
<td>Ranson Christmas Festival (Jefferson) $2,970, Renick Liberty Festival (Greenbrier) $684</td>
<td>$8,910</td>
</tr>
<tr>
<td>Ripley 4th of July (Jackson) $8,910, Ritchie County Fair and Exposition $2,970, Ritchie County Pioneer Days $684, River City Festival (Preston) $684</td>
<td>$2,970</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Roane County Agriculture Field Day $1,782, Rock the Park (Kanawha) $3,240, Rocket Boys Festival (Raleigh) $1,710</td>
<td>$1,782</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Romney Heritage Days (Hampshire) $1,876, Ronceverte River Festival (Greenbrier) $2,970, Rowlesburg Labor Day Festival (Preston) $684, Rasper Country Fling (Greenbrier) $3,267</td>
<td>$1,782</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Saint Spyridon Greek Festival (Harrison) $1,485, Salem Apple Butter Festival (Harrison) $2,376, Sistersville 4th of July (Tyler) $3,267, Skirmish on the River (Mingo) $1,250</td>
<td>$1,782</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Smoke on the Water (Wetzel) $1,782, South Charleston Summerfest (Kanawha) $5,940, Southern Wayne County Fall Festival $684, Spirit of Grafton Celebration (Taylor) $5,940</td>
<td>$1,782</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Springfield Peach Festival (Hampshire) $738, St. Albans City of Lights - December (Kanawha) $2,970, Sternwheel Festival (Wood) $1,782, Stoc Reunion (Raleigh) $1,485, Stonewall Jackson Heritage Arts &amp; Crafts Jubilee (Lewis) $6,534, Stonewall Jackson's Roundhouse Raid (Berkeley) $7,200, Storytelling Festival (Lewis) $400, Strawberry Festival (Upshur) $17,821, Sylvester Big Coal River Festival $1,944, Tacy Fair (Barbour) $684, Taste of Parkersburg (Wood) $2,970, Taylor County Fair $3,267, Terra Alta VFD 4th of July Celebration (Preston) $684, The</td>
<td>$1,782</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Gathering at Sweet Creek (Wood) $1,782, Three Rivers Coal Festival (Marion) $4,604, Thunder on the Tygart - Mothers' Day Celebration (Taylor) $8,910, Town of Delbarton 4th of July Celebration (Mingo) $1,782, Town of Fayetteville Heritage Festival (Fayette) $4,456, Town of Matoaka Hog Roast (Mercer) $684, Town of Rivesville 4th of July Festival (Marion) $3,127, Town of Winfield - Putnam County Homecoming $3,240, St. Albans Train Fest (Kanawha) $6,120, Treasure Mountain Festival (Pendleton) $14,851, Tri-County Fair (Grant) $22,548, Tucker County Arts Festival and Celebration $10,692, Tucker County Fair $2,821, Tucker County Health Fair $1,188, Tunnelton Depot Days (Preston) $684, Tunnelton Volunteer Fire Department Festival (Preston) $684, Turkey Festival (Hardy) $1,782, Tyler County Fair $3,088, Tyler County 4th of July $400, Tyler County OctoberFest $720, Union Community Irish Festival (Barbour) $648, Uniquely West Virginia Festival (Morgan) $1,188, Upper Kanawha Valley Oktoberfest (Kanawha) $1,485, Upper Ohio Valley Italian Festival (Ohio) $7,128, Upshur County Youth Livestock Show $1,440, Valley District Fair (Preston) $2,079, Veterans Welcome Home Celebration (Cabell) $938, Vietnam Veterans of America # 949 Christmas Party (Cabell) $684, Volcano Days at Mountwood Park (Wood) $2,970, War Homecoming Fall Festival (McDowell) $891, Wardensville Fall Festival (Hardy) $2,970, Wayne County Fair $2,970, Wayne County Fall Festival $2,970, Webster County Fair $3,600, Webster County Wood Chopping Festival $8,910, Webster Wild Water Weekend $1,188, Weirton July 4th Celebration (Hancock) $11,881, Welcome Home Family Day (Wayne) $1,900, Wellsburg 4th of July Celebration (Brooke) $4,456, Wellsburg Apple Festival of Brooke County $2,970, West Virginia Blackberry Festival (Harrison) $2,970, West Virginia Chestnut Festival (Preston) $684, West Virginia Coal Festival (Boone) $5,940, West Virginia Coal Show (Mercer) $1,563, West Virginia Dairy Cattle Show (Lewis) $5,940, West Virginia Dandelion Festival (Greenbrier) $2,970, West Virginia Day at the Railroad Museum (Mercer) $1,800, West Virginia Fair and Exposition (Wood) $4,812,
West Virginia Fireman's Rodeo (Fayette) $1,485, West Virginia
Virginia Oil and Gas Festival (Tyler) $6,534, West Virginia
Peach Festival (Hampshire) $3,240, West Virginia Polled Hereford Association (Braxton) $891, West Virginia Poultry Festival (Hardy) $2,970, West Virginia Pumpkin Festival (Cabell) $5,940, West Virginia State Folk Festival (Gilmer) $2,970, West Virginia Water Festival - City of Hinton (Summers) $9,144, Weston VFD 4th of July Firemen Festival (Lewis) $1,188, Wetzel County Autumnfest $3,267, Wetzel County Town and Country Days $10,098, Wheeling Celtic Festival (Ohio) $1,166, Wheeling City of Lights (Ohio) $4,752, Wheeling Sternwheel Regatta (Ohio) $5,940, Wheeling Vintage Raceboat Regatta (Ohio) $11,881, Whipple Community Action (Fayette) $1,485, Wileyville Homecoming (Wetzel) $2,376, Wine Festival and Mountain Music Event (Harrison) $2,970, Winter Festival of the Waters (Berkeley) $2,970, Wirt County Fair $1,485, Wirt County Pioneer Days $1,188, Wyoming County Civil War Days $1,296, Youth Stockman Beef Expo (Lewis) $1,188.

Any unexpended balances remaining in the appropriations for Preservation West Virginia (fund 3534, appropriation 09200), Fairs and Festivals (fund 3534, appropriation 12200), Archeological Curation/Capital Improvements (fund 3534, appropriation 24600), Historic Preservation Grants (fund 3534, appropriation 31100), Grants for Competitive Arts Program (fund 3534, appropriation 62400), and Project ACCESS (fund 3534, appropriation 86500) at the close of the fiscal year 2017 are hereby re appropriated for expenditure during the fiscal year 2018.

Any Fairs & Festivals awards shall be funded in addition to, and not in lieu of, individual grant allocations derived from the Arts Council and the Cultural Grant Program allocations.

291-Library Commission –
Lottery Education Fund
(WV Code Chapter 10)
### Fund 3559 FY 2018 Org 0433

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>FY 2018 Org 0433</th>
</tr>
</thead>
<tbody>
<tr>
<td>Books and Films</td>
<td>17900</td>
<td>$360,784</td>
</tr>
<tr>
<td>Services to Libraries</td>
<td>18000</td>
<td>550,000</td>
</tr>
<tr>
<td>Grants to Public Libraries</td>
<td>18200</td>
<td>9,439,571</td>
</tr>
<tr>
<td>Digital Resources</td>
<td>30900</td>
<td>219,992</td>
</tr>
<tr>
<td>Infomine Network</td>
<td>88400</td>
<td>852,729</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$11,423,076</strong></td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the appropriation for Libraries – Special Projects (fund 3559, appropriation 62500) at the close of fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

### 292-Bureau of Senior Services –

**Lottery Senior Citizens Fund**

(WV Code Chapter 29)

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>FY 2018 Org 0508</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services and Employee Benefits</td>
<td>00100</td>
<td>$193,505</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>13000</td>
<td>332,095</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>06400</td>
<td>1,000</td>
</tr>
<tr>
<td>Local Programs Service</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delivery Costs</td>
<td>20000</td>
<td>2,435,250</td>
</tr>
<tr>
<td>Silver Haired Legislature</td>
<td>20200</td>
<td>18,500</td>
</tr>
<tr>
<td>Transfer to Division of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Human Services for Health Care</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and Title XIX Waiver for Senior Citizens</td>
<td>53900</td>
<td>12,982,692</td>
</tr>
<tr>
<td>Roger Tompkins Alzheimer’s Respite Care</td>
<td>64300</td>
<td>2,296,601</td>
</tr>
<tr>
<td>WV Alzheimer’s Hotline</td>
<td>72400</td>
<td>45,000</td>
</tr>
<tr>
<td>Regional Aged and Disabled Resource Center</td>
<td>76700</td>
<td>425,000</td>
</tr>
<tr>
<td>Senior Services Medicaid Transfer</td>
<td>87100</td>
<td>14,502,312</td>
</tr>
<tr>
<td>Legislative Initiatives for the Elderly</td>
<td>90400</td>
<td>9,671,239</td>
</tr>
</tbody>
</table>
Long Term Care Ombudsman ........ 90500 297,226
BRIM Premium............................ 91300 7,152
In-Home Services and Nutrition for Senior Citizens .......... 91700 4,320,941
Total......................................... $47,528,513

Any unexpended balance remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, appropriation 46200) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

Included in the above appropriation for Current Expenses (fund 5405, appropriation 13000), is funding to support an in-home direct care workforce registry.

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

293-Higher Education Policy Commission –

Lottery Education –

Higher Education Policy Commission –

Control Account

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2018 Org 0441

RHI Program and Site Support (R).... 03600 $ 1,912,491
RHI Program and Site Support – RHEP Program Administration... 03700 146,653
RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (R)............. 03800 87,110
Minority Doctoral Fellowship (R).... 16600 129,604
Health Sciences Scholarship (R).... 17600 220,690
9 Vice Chancellor for Health Sciences –
10 Rural Health
11 Residency Program (R) ........... 60100 62,725
12 WV Engineering, Science, and
13 Technology Scholarship
14 Program ................................... 86800 452,831
15 Total......................................... $ 3,012,104

Any unexpended balances remaining in the
appropriations for RHI Program and Site Support (fund
4925, appropriation 03600), RHI Program and Site Support
– Grad Med Ed and Fiscal Oversight (fund 4925,
appropriation 03800), Minority Doctoral Fellowship (fund
4925, appropriation 16600), Health Sciences Scholarship
(fund 4925, appropriation 17600), and Vice Chancellor for
Health Sciences – Rural Health Residency Program (fund
4925, appropriation 60100) at the close of fiscal year 2017
are hereby reappropriated for expenditure during the fiscal
year 2018.

The above appropriation for WV Engineering, Science,
and Technology Scholarship Program (appropriation 86800)
shall be transferred to the West Virginia Engineering, Science
and Technology Scholarship Fund (fund 4928, org 0441)
established by W.Va. Code §18C-6-1.

294-Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2018 Org 0442

1 Debt Service – Total ................. 31000 $ 5,000,000

Any unexpended balance remaining in the appropriation
for Capital Outlay and Improvements – Total (fund 4908,
appropriation 84700) at the close of fiscal year 2017 is
hereby reappropriated for expenditure during the fiscal year
2018.
### 295-Higher Education Policy Commission –

#### Lottery Education –

**West Virginia University – School of Medicine**

(WV Code Chapter 18B)

**Fund 4185 FY 2018 Org 0463**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>WVU Health Sciences – RHI Program and Site Support</td>
<td>03500</td>
<td>$1,107,466</td>
</tr>
<tr>
<td>MA Public Health Program and Health Science Technology</td>
<td>62300</td>
<td>52,387</td>
</tr>
<tr>
<td>Health Sciences Career Opportunities Program</td>
<td>86900</td>
<td>319,587</td>
</tr>
<tr>
<td>HSTA Program</td>
<td>87000</td>
<td>1,630,169</td>
</tr>
<tr>
<td>Center for Excellence in Disabilities</td>
<td>96700</td>
<td>292,554</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$3,402,163</strong></td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the appropriations for WVU Health Sciences – RHI Program and Site Support (fund 4185, appropriation 03500), MA Public Health Program and Health Science Technology (fund 4185, appropriation 62300), Health Sciences Career Opportunities Program (fund 4185, appropriation 86900), HSTA Program (fund 4185, appropriation 87000), and Center for Excellence in Disabilities (fund 4185, appropriation 96700) at the close of fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

### 296-Higher Education Policy Commission –

#### Lottery Education –

**Marshall University – School of Medicine**
(WV Code Chapter 18B)

Fund 4896 FY 2018 Org 0471

<table>
<thead>
<tr>
<th></th>
<th>Marshall Medical School – RHI Program and Site Support (R)</th>
<th>03300</th>
<th>$ 396,249</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Vice Chancellor for Health Sciences – Rural Health Residency Program (R)</td>
<td>60100</td>
<td>$163,858</td>
</tr>
<tr>
<td>7</td>
<td>Total</td>
<td></td>
<td>$560,107</td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the appropriations for Marshall Medical School – RHI Program and Site Support (fund 4896, appropriation 03300) and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4896, appropriation 60100) at the close of fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

Total TITLE II, Section 4 – Lottery Revenue ... $130,917,133

Sec. 5. Appropriations from state excess lottery revenue fund. — In accordance with W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following appropriations shall be deposited and disbursed by the Director of the Lottery to the following accounts in this section in the amounts indicated.

After first funding the appropriations required by W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the Director of the Lottery shall provide funding from the State Excess Lottery Revenue Fund for the remaining appropriations in this section to the extent that funds are available. In the event that revenues to the State Excess Lottery Revenue Fund are sufficient to meet all the appropriations required made pursuant to this section, then the Director of the Lottery shall then provide the funds available for fund 5365, appropriation 18900.
### 297-Lottery Commission –

**Refundable Credit**

Fund 7207 FY 2018 Org 0705

<table>
<thead>
<tr>
<th>Excess Appropriation Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Directed Transfer ..........</td>
</tr>
<tr>
<td>70000 $10,000,000</td>
</tr>
</tbody>
</table>

The above appropriation shall be transferred to the General Revenue Fund to provide reimbursement for the refundable credit allowable under W.Va. Code §11-21-21. The amount of the required transfer shall be determined solely by the State Tax Commissioner and shall be completed by the Director of the Lottery upon the commissioner’s request.

### 298-Lottery Commission –

**General Purpose Account**

Fund 7206 FY 2018 Org 0705

<table>
<thead>
<tr>
<th>General Revenue Fund – Transfer</th>
</tr>
</thead>
<tbody>
<tr>
<td>70011 $65,000,000</td>
</tr>
</tbody>
</table>

The above appropriation shall be transferred to the General Revenue Fund as determined by the Director of the Lottery in accordance with W.Va. Code §29-22-18a.

### 299-Higher Education Policy Commission –

**Education Improvement Fund**

Fund 4295 FY 2018 Org 0441

<table>
<thead>
<tr>
<th>PROMISE Scholarship – Transfer</th>
</tr>
</thead>
<tbody>
<tr>
<td>80000 $29,000,000</td>
</tr>
</tbody>
</table>

The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

The Legislature has explicitly set a finite amount of available appropriations and directed the administrators of the Program to provide for the award of scholarships within the limits of available appropriations.

300-Economic Development Authority –

Economic Development Project Fund

Fund 9065 FY 2018 Org 0944

Pursuant to W.Va. Code §29-22-18a, subsection (f), excess lottery revenues are authorized to be transferred to the lottery fund as reimbursement of amounts transferred to the economic development project fund pursuant to section four of this title and W.Va. Code §29-22-18, subsection (f).

301-Department of Education –

School Building Authority

Fund 3514 FY 2018 Org 0402


302-West Virginia Infrastructure Council –

West Virginia Infrastructure Transfer Fund

Fund 3390 FY 2018 Org 0316


303-Higher Education Policy Commission –
Higher Education Improvement Fund

Fund 4297 FY 2018 Org 0441

1 Directed Transfer ......................... 70000 $ 15,000,000

The above appropriation shall be transferred to fund 4903, org 0442 as authorized by Senate Concurrent Resolution No. 41.

304-Division of Natural Resources –

State Park Improvement Fund

Fund 3277 FY 2018 Org 0310

1 Current Expenses (R)...................... 13000 $ 2,438,300
2 Repairs and Alterations (R)............ 06400 2,161,200
3 Equipment (R)............................. 07000 200,000
4 Buildings (R).............................. 25800 100,000
5 Other Assets (R)........................... 69000 100,500
6 Total........................................ $ 5,000,000

Any unexpended balances remaining in the above appropriations for Repairs and Alterations (fund 3277, appropriation 06400), Equipment (fund 3277, appropriation 07000), Unclassified – Total (fund 3277, appropriation 09600), Unclassified (fund 3277, appropriation 09900), Current Expenses (fund 3277, appropriation 13000), Buildings (fund 3277, appropriation 25800), and Other Assets (fund 3277, appropriation 69000) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

305-Racing Commission –

Fund 7308 FY 2018 Org 0707

1 Special Breeders Compensation
2 (WVC §29-22-18a, subsection (l))... 21800 $ 2,000,000
### 306-Lottery Commission –

**Distributions to Statutory Funds and Purposes**

**Fund 7213 FY 2018 Org 0705**

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Parking Garage Fund – Transfer</td>
<td>70001</td>
<td>$500,000</td>
</tr>
<tr>
<td>2</td>
<td>2004 Capitol Complex Parking Garage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Fund – Transfer</td>
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<td>Improvement Fund – Transfer</td>
<td>70004</td>
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<td>9</td>
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### 307-Governor’s Office

(WV Code Chapter 5)

**Fund 1046 FY 2018 Org 0100**
Any unexpended balance remaining in the appropriation for Publication of Papers and Transition Expenses – Lottery Surplus (fund 1046, appropriation 06600) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

308-West Virginia Development Office

(WV Code Chapter 5B)

Fund 3170 FY 2018 Org 0307

Any unexpended balances remaining in the appropriations for Unclassified – Total (fund 3170, appropriation 09600), Recreational Grants or Economic Development Loans (fund 3170, appropriation 25300), and Connectivity Research and Development – Lottery Surplus (fund 3170, appropriation 92300) at the close of the fiscal year 2017 are hereby reappropriated for expenditure during the fiscal year 2018.

309-Higher Education Policy Commission – Administration – Control Account

(WV Code Chapter 18B)

Fund 4932 FY 2018 Org 0441

Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.

310-Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2018 Org 0511
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<td>311-Division of Corrections – Correctional Units</td>
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<td>3</td>
<td>(WV Code Chapters 25, 28, 49 and 62)</td>
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<td>4</td>
<td>Fund 6283 FY 2018 Org 0608</td>
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<tr>
<td>5</td>
<td>Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 6283, appropriation 75500) at the close of the fiscal year 2017 is hereby reappropriated for expenditure during the fiscal year 2018.</td>
<td></td>
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<td>6</td>
<td>Total TITLE II, Section 5 –</td>
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<td>Excess Lottery Funds</td>
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<td>$297,587,415</td>
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<td>8</td>
<td>Sec. 6. Appropriations of federal funds. — In accordance with Article 11, Chapter 4 of the Code from federal funds there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2018.</td>
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**LEGISLATIVE**

312-Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2018 Org 2300

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<td>Payment Fund</td>
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JUDICIAL

313-Supreme Court

Fund 8867 FY 2018 Org 2400

1 Personal Services and
2 Employee Benefits ............... 00100 $ 2,008,000
3 Current Expenses ................... 13000 1,992,000
4 Total ...................................... $ 4,000,000

EXECUTIVE

314-Governor’s Office

(WV Code Chapter 5)

Fund 8742 FY 2018 Org 0100

1 Current Expenses – Total .......... 13000 $ 225,000

315-Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2018 Org 1400

1 Personal Services and
2 Employee Benefits ............... 00100 $ 1,563,760
3 Unclassified ....................... 09900 50,534
4 Current Expenses ................... 13000 3,828,661
5 Repairs and Alterations .......... 06400 650,000
6 Equipment ......................... 07000 910,500
7 Other Assets ....................... 69000 50,000
8 Total ................................. $ 7,053,455

316-Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 8737 FY 2018 Org 1400
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<td>Repairs and Alterations</td>
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<td>5,500</td>
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<td>6</td>
<td>Equipment</td>
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317-Department of Agriculture –

State Conservation Committee

(WV Code Chapter 19)

Fund 8783 FY 2018 Org 1400

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318-Department of Agriculture –

Land Protection Authority

Fund 8896 FY 2018 Org 1400

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319-Secretary of State –

State Election Fund

(WV Code Chapter 3)

Fund 8854 FY 2018 Org 1600

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### DEPARTMENT OF COMMERCE

320-Division of Forestry

(WV Code Chapter 19)

**Fund 8703 FY 2018 Org 0305**

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<td>Repairs and Alterations</td>
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<td>100,000</td>
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321-Geological and Economic Survey

(WV Code Chapter 29)

**Fund 8704 FY 2018 Org 0306**

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<td>Other Assets</td>
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322-West Virginia Development Office

(WV Code Chapter 5B)

**Fund 8705 FY 2018 Org 0307**

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**323-West Virginia Development Office –**

*Office of Economic Opportunity*

*(WV Code Chapter 5)*

Fund 8901 FY 2018 Org 0307

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**324-Division of Labor**

*(WV Code Chapters 21 and 47)*

Fund 8706 FY 2018 Org 0308

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**325-Division of Natural Resources**

*(WV Code Chapter 20)*

Fund 8707 FY 2018 Org 0310

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326-Division of Miners’ Health,  
*Safety and Training*  
(WV Code Chapter 22)  
Fund 8709 FY 2018 Org 0314

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327-WorkForce West Virginia  
(WV Code Chapter 23)  
Fund 8835 FY 2018 Org 0323

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Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, and the provisions of W.Va. Code §21A-9-9, the above appropriation to Unclassified and Current Expenses shall be used by WorkForce West Virginia for the specific purpose
of administration of the state’s unemployment insurance program or job service activities, subject to each and every restriction, limitation or obligation imposed on the use of the funds by those federal and state statutes.

328-Office of Energy

(WV Code Chapter 5B)

Fund 8892 FY 2018 Org 0328

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DEPARTMENT OF EDUCATION

329-State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2018 Org 0402

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330-State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)
Fund 8713 FY 2018 Org 0402

Personal Services and Employee Benefits ................... 00100 $ 1,812,648
Unclassified ................................... 09900 1,150,500
Current Expenses .................................. 13000 143,281,265
Repairs and Alterations .................. 06400 20,000
Equipment ...................................... 07000 100,000
Other Assets ................................... 69000 25,000
Total ......................................... $ 146,389,413

331-State Board of Education – Vocational Division

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2018 Org 0402

1 Personal Services and
2 Employee Benefits ................... 00100 $ 1,519,972
3 Unclassified ................................... 09900 155,000
4 Current Expenses .................................. 13000 14,320,081
5 Repairs and Alterations .................. 06400 10,000
6 Equipment ...................................... 07000 10,000
7 Other Assets ................................... 69000 10,000
8 Total ......................................... $ 16,025,053

332-State Board of Education – Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2018 Org 0402

1 Personal Services and
2 Employee Benefits ................... 00100 $ 3,344,940
3 Unclassified ................................... 09900 1,000,000
4 Current Expenses .................................. 13000 108,346,390
5 Repairs and Alterations .................. 06400 10,000
6 Equipment ...................................... 07000 10,000
DEPARTMENT OF EDUCATION AND THE ARTS

333-Department of Education and the Arts –
Office of the Secretary
(WV Code Chapter 5F)

Fund 8841 FY 2018 Org 0431

1 Personal Services and
2 Employee Benefits ................... 00100 $ 416,675
3 Current Expenses ..................... 13000 5,587,325
4 Repairs and Alterations ............ 06400 1,000
5 Total .....................................   $ 6,005,000

334-Division of Culture and History
(WV Code Chapter 29)

Fund 8718 FY 2018 Org 0432

1 Personal Services and
2 Employee Benefits ................... 00100 $ 743,046
3 Current Expenses ..................... 13000 1,947,372
4 Repairs and Alterations ............ 06400 1,000
5 Equipment ............................. 07000 1,000
6 Buildings ............................. 25800 1,000
7 Other Assets ......................... 69000 1,000
8 Land ................................... 73000 360
9 Total .................................... $ 2,694,778

335-Library Commission
(WV Code Chapter 10)

Fund 8720 FY 2018 Org 0433

1 Personal Services and
2 Employee Benefits ................... 00100 $ 333,648
336-Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2018 Org 0439

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337-State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 8734 FY 2018 Org 0932

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338-State Board of Rehabilitation –

Division of Rehabilitation Services –

Disability Determination Services

(WV Code Chapter 18)

Fund 8890 FY 2018 Org 0932

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DEPARTMENT OF ENVIRONMENTAL PROTECTION

339-Division of Environmental Protection

(WV Code Chapter 22)

Fund 8708 FY 2018 Org 0313

1 Personal Services and
2 Employee Benefits..................... 00100 $ 29,177,068
3 Current Expenses....................... 13000 190,201,007
4 Repairs and Alterations.............. 06400 738,283
5 Equipment.................................. 07000 1,725,238
6 Unclassified............................. 09900 2,201,827
7 Other Assets............................ 69000 2,154,416
8 Land....................................... 73000 100,000
9 Total...................................... $226,297,839

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

340-Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 8723 FY 2018 Org 0506

1 Personal Services and
2 Employee Benefits..................... 00100 $ 750,876
3 Unclassified............................. 09900 73,307
4 Current Expenses....................... 13000 6,630,103
5 Total...................................... $ 7,454,286

341-Division of Health –

Central Office

(WV Code Chapter 16)

Fund 8802 FY 2018 Org 0506

1 Personal Services and
2 Employee Benefits..................... 00100 $13,744,404
3  Unclassified .......................... 09900 947,948
4  Current Expenses                  13000 79,110,551
5  Equipment                       07000 456,972
6  Buildings                       25800 155,000
7  Other Assets                    69000 380,000
8  Total                           .................. $94,794,875

342-Division of Health –

*West Virginia Safe Drinking Water Treatment*

(WV Code Chapter 16)

Fund 8824 FY 2018 Org 0506

1  West Virginia Drinking Water Treatment
2  Revolving Fund – Transfer......  68900 $ 16,000,000

343-West Virginia Health Care Authority

(WV Code Chapter 16)

Fund 8851 FY 2018 Org 0507

1  Unclassified .......................... 09900 $ 9,966
2  Current Expenses                  13000 986,649
3  Total                           .................. $ 996,615

344-Human Rights Commission

(WV Code Chapter 5)

Fund 8725 FY 2018 Org 0510

1  Personal Services and
2  Employee Benefits................... 00100 $ 625,349
3  Unclassified .......................... 09900 5,482
4  Current Expenses                  13000 140,389
5  Total                           .................. $ 771,220

345-Division of Human Services

(WV Code Chapters 9, 48, and 49)
### DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY

#### 346-Office of the Secretary

(WV Code Chapter 5F)

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#### 347-Adjutant General – State Militia

(WV Code Chapter 15)

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<td>3</td>
<td>Martinsburg Starbase</td>
<td>74200</td>
<td>0603</td>
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<td></td>
<td><strong>$5,942,705</strong></td>
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4 Charleston Starbase ............... 74300 400,000
5 Military Authority ................. 74800 91,927,900
6 Total .................................... $98,270,605

7 The Adjutant General shall have the authority to transfer
8 between appropriations.

348- Adjutant General –

West Virginia National Guard Counterdrug Forfeiture Fund

(WV Code Chapter 15)

Fund 8785 FY 2018 Org 0603

1 Personal Services and
2 Employee Benefits ............... 00100 $ 1,350,000
3 Current Expenses ................. 13000 300,000
4 Equipment ......................... 07000 350,000
5 Total .................................... $ 2,000,000

349- Division of Homeland Security and

Emergency Management

(WV Code Chapter 15)

Fund 8727 FY 2018 Org 0606

1 Personal Services and
2 Employee Benefits ............... 00100 $ 721,650
3 Current Expenses ................. 13000 20,429,281
4 Repairs and Alterations ......... 06400 5,000
5 Equipment ......................... 07000 100,000
6 Total .................................... $21,255,931

350- Division of Corrections

(WV Code Chapters 25, 28, 49 and 62)

Fund 8836 FY 2018 Org 0608

1 Unclassified ......................... 09900 $ 1,100
### 351-West Virginia State Police

(WV Code Chapter 15)

Fund 8741 FY 2018 Org 0612

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### 352-Fire Commission

(WV Code Chapter 29)

Fund 8819 FY 2018 Org 0619

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### 353-Division of Justice and Community Services

(WV Code Chapter 15)

Fund 8803 FY 2018 Org 0620

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### DEPARTMENT OF REVENUE

**354-Insurance Commissioner**

(WV Code Chapter 33)

Fund 8883 FY 2018 Org 0704

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### DEPARTMENT OF TRANSPORTATION

**355-Division of Motor Vehicles**

(WV Code Chapter 17B)

Fund 8787 FY 2018 Org 0802

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**356-Division of Public Transit**

(WV Code Chapter 17)

Fund 8745 FY 2018 Org 0805

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**357-Public Port Authority**

(WV Code Chapter 17)
### DEPARTMENT OF VETERANS’ ASSISTANCE

#### 358-Department of Veterans’ Assistance

(WV Code Chapter 9A)

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#### 359-Department of Veterans’ Assistance – Veterans’ Home

(WV Code Chapter 9A)

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### BUREAU OF SENIOR SERVICES

**360-Bureau of Senior Services**

(WV Code Chapter 29)

Fund 8724 FY 2018 Org 0508

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### MISCELLANEOUS BOARDS AND COMMISSIONS

**361-Public Service Commission – Motor Carrier Division**

(WV Code Chapter 24A)

Fund 8743 FY 2018 Org 0926

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**362-Public Service Commission – Gas Pipeline Division**

(WV Code Chapter 24B)

Fund 8744 FY 2018 Org 0926

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<td>Equipment</td>
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Sec. 7. Appropriations from federal block grants. — The following items are hereby appropriated from federal block grants to be available for expenditure during the fiscal year 2018.

364-West Virginia Development Office – Community Development

Fund 8746 FY 2018 Org 0307

1 Personal Services and
2 Employee Benefits................. 00100 $ 648,117
3 Unclassified .......................... 09900 375,000
4 Current Expenses .................... 13000 36,476,883
5 Total.................................... $ 37,500,000

365-Department of Commerce

West Virginia Development Office – Office of Economic Opportunity –
### Community Services

**Fund 8902 FY 2018 Org 0307**

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### Workforce Investment Act – WorkForce West Virginia

**Fund 8749 FY 2018 Org 0323**

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>00100</td>
<td>Personal Services and Employee Benefits</td>
<td>$2,112,606</td>
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<tr>
<td>2</td>
<td>09900</td>
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<td>$23,023</td>
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<td>3</td>
<td>13000</td>
<td>Current Expenses</td>
<td>$39,263,511</td>
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<tr>
<td>4</td>
<td>06400</td>
<td>Repairs and Alterations</td>
<td>$1,600</td>
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<tr>
<td>5</td>
<td>07000</td>
<td>Equipment</td>
<td>$500</td>
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<tr>
<td>6</td>
<td>25800</td>
<td>Buildings</td>
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<td>$41,402,340</td>
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### Maternal and Child Health

**Fund 8750 FY 2018 Org 0506**

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Description</th>
<th>Amount</th>
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<tbody>
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<td>Personal Services and Employee Benefits</td>
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<td>13000</td>
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<td>Total</td>
<td>$11,001,731</td>
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### Preventive Health

**Fund 8750 FY 2018 Org 0506**

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>Total</td>
<td>$11,001,731</td>
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### Ch. 1] APPROPRIATIONS

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Org</th>
<th>Cost</th>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services and</td>
<td>0506</td>
<td>$ 162,320</td>
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<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>00100</td>
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<td>3</td>
<td>Unclassified</td>
<td>09900</td>
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<td>Current Expenses</td>
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<td>Equipment</td>
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<td>$ 2,245,785</td>
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#### 369-Division of Health –

**Substance Abuse Prevention and Treatment**

<table>
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<th>Description</th>
<th>Org</th>
<th>Cost</th>
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<td>Employee Benefits</td>
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#### 370-Division of Health –

**Community Mental Health Services**

<table>
<thead>
<tr>
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<th>Description</th>
<th>Org</th>
<th>Cost</th>
</tr>
</thead>
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<td>1</td>
<td>Personal Services and</td>
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<td>2</td>
<td>Employee Benefits</td>
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<td>Unclassified</td>
<td>09900</td>
<td>33,533</td>
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<td>2,383,307</td>
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<td>5</td>
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<td>$ 3,353,397</td>
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#### 371-Division of Human Services –

**Energy Assistance**

<table>
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<th></th>
<th>Description</th>
<th>Org</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services and</td>
<td>0511</td>
<td>$ 1,514,312</td>
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<td>2</td>
<td>Employee Benefits</td>
<td>00100</td>
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<tr>
<td>3</td>
<td>Unclassified</td>
<td>09900</td>
<td>350,000</td>
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4  Current Expenses ........................... 13000  $33,181,300
5  Total........................................  $35,045,612

372-Division of Human Services –

Social Services

Fund 8757 FY 2018 Org 0511

1  Personal Services and
2  Employee Benefits..................... 00100  $14,231,684
3  Unclassified .............................. 09900  171,982
4  Current Expenses ....................... 13000  2,870,508
5  Total........................................  $17,274,174

373-Division of Human Services –

Temporary Assistance for Needy Families

Fund 8816 FY 2018 Org 0511

1  Personal Services and
2  Employee Benefits..................... 00100  $18,297,327
3  Unclassified .............................. 09900  1,250,000
4  Current Expenses ....................... 13000 105,847,136
5  Total........................................  $125,394,463

374-Division of Human Services –

Child Care and Development

Fund 8817 FY 2018 Org 0511

1  Personal Services and
2  Employee Benefits..................... 00100  $ 4,676,841
3  Unclassified .............................. 09900 350,000
4  Current Expenses ....................... 13000 31,999,456
5  Total........................................  $37,026,297

375-Division of Justice and Community Services –

Juvenile Accountability Incentive
Sec. 8. Awards for claims against the state. — There are hereby appropriated for fiscal year 2018, from the fund as designated, in the amounts as specified, general revenue funds in the amount of $930,144, special revenue funds in the amount of $458,734, and state road funds in the amount of $563,249 for payment of claims against the state.

Sec. 9. Appropriations from general revenue surplus accrued. — The following items are hereby appropriated from the state fund, general revenue, and are to be available for expenditure during the fiscal year 2018 out of surplus funds only, accrued from the fiscal year ending June 30, 2017, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriations be payable only from surplus as of July 31, 2017 from the fiscal year ending June 30, 2017, only after first meeting requirements of W.Va. Code §11B-2-20(b).

In the event that surplus revenues available on July 31, 2017, are not sufficient to meet the appropriations made pursuant to this section, then the appropriations shall be made to the extent that surplus funds are available as of the date mandated to meet the appropriations in this section and shall be allocated first to provide the necessary funds to meet the first appropriation of this section and each subsequent appropriation in the order listed in this section.
376-Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2018 Org 0211

1 Capital Outlay, Repairs and Equipment – Surplus ............... 67700 $ 8,000,000

377-Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2018 Org 0511

1 Medical Services – Surplus............. 63300 $ 30,159,358

378-State Auditor –

General Administration

(WV Code Chapter 12)

Fund 0116 FY 2018 Org 1200

1 Volunteer Fire Department Workers’ Compensation Subsidy –
2 Surplus..................................... ##### $ 2,000,000

379-Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2018 Org 0702

1 Enhanced Enforcement and Auditing - Surplus .................... ##### $ 750,000

3 Total TITLE II, Section 9 –
4 Surplus Accrued ....................... $ 40,909,358

1 Sec. 10. Appropriations from lottery net profits
2 surplus accrued. — The following item is hereby
appropriated from the lottery net profits, and is to be available for expenditure during the fiscal year 2018 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2017, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2017.

In the event that surplus revenues available from the fiscal year ending June 30, 2017, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

380-Bureau of Senior Services –
Lottery Senior Citizens Fund
(WV Code Chapter 29)
Fund 5405 FY 2018 Org 0508

Senior Services Medicaid Transfer –
Lottery Surplus ......................... 68199 $15,500,000
Total TITLE II, Section 10 –
Surplus Accrued ......................... $15,500,000

Sec. 11. Appropriations from state excess lottery revenue surplus accrued. — The following item is hereby appropriated from the state excess lottery revenue fund, and is to be available for expenditure during the fiscal year 2018 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2017, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2017.
In the event that surplus revenues available from the fiscal year ending June 30, 2017, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

381-Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2018 Org 0511

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Medical Services –</td>
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</tr>
<tr>
<td>Lottery Surplus</td>
<td>68100</td>
</tr>
<tr>
<td>Total TITLE II, Section 11 –</td>
<td>$26,900,000</td>
</tr>
<tr>
<td>Surplus Accrued</td>
<td></td>
</tr>
</tbody>
</table>

Sec. 12. Special revenue appropriations. — There are hereby appropriated for expenditure during the fiscal year 2018 appropriations made by general law from special revenues which are not paid into the state fund as general revenue under the provisions of W.Va. Code §12-2-2: Provided, That none of the money so appropriated by this section shall be available for expenditure except in compliance with the provisions of W.Va. Code §12-2 and 3, and W.Va. Code §11B-2, unless the spending unit has filed with the director of the budget and the legislative auditor prior to the beginning of each fiscal year:

(a) An estimate of the amount and sources of all revenues accruing to such fund; and

(b) A detailed expenditure schedule showing for what purposes the fund is to be expended.

During Fiscal Year 2018, the following funds are hereby available and are to be transferred to the Department of Health and Human Resources, Division of Human Services – Medical Services Trust Fund (fund 5185) from available balances per the following:
382-Treasurer’s Office –
Banking Services Fund
(WV Code Chapter 12)
Fund 1322 FY 2018 Org 1300
1 Directed Transfer ........................... 70000 $1,209,197.40

383-Department of Administration -
Office of the Secretary -
State Employee Sick Leave Fund
(WV Code Chapter 5)
Fund 2045 FY 2018 Org 0201
1 Directed Transfer ........................... 70000 $454,906.67

384-Department of Administration -
Office of the Secretary -
Gifts, Grants and Donations
(WV Code Chapter 5A)
Fund 2046 FY 2018 Org 0201
1 Directed Transfer ........................... 70000 $ 80,000

385-Department of Administration -
Division of Personnel -
Civil Service Emergency Employment Fund
(WV Code Chapter 29)
Fund 2444 FY 2018 Org 0222
Sec. 13. State improvement fund appropriations. — Bequests or donations of nonpublic funds, received by the Governor on behalf of the state during the fiscal year 2018, for the purpose of making studies and recommendations relative to improvements of the administration and management of spending units in the executive branch of state government, shall be deposited in the state treasury in a separate account therein designated state improvement fund. There are hereby appropriated all moneys so deposited during the fiscal year 2018 to be expended as authorized by the Governor, for such studies and recommendations which may encompass any problems of organization, procedures, systems, functions, powers or duties of a state spending unit in the executive branch, or the betterment of the economic, social, educational, health and general welfare of the state or its citizens.

Sec. 14. Specific funds and collection accounts. — A fund or collection account which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account and shall be expended according to the provisions of Article 3, Chapter 12 of the Code.
Sec. 15. Appropriations for refunding erroneous payment. — Money that has been erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid, for refund to the proper person.

When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid, he or she shall issue his or her requisition upon the Auditor for the refunding of the proper amount. The Auditor shall issue his or her warrant to the Treasurer and the Treasurer shall pay the warrant out of the fund into which the amount was originally paid.

Sec. 16. Sinking fund deficiencies. — There is hereby appropriated to the Governor a sufficient amount to meet any deficiencies that may arise in the mortgage finance bond insurance fund of the West Virginia housing development fund which is under the supervision and control of the municipal bond commission as provided by W.Va. Code §31-18-20b, or in the funds of the municipal bond commission because of the failure of any state agency for either general obligation or revenue bonds or any local taxing district for general obligation bonds to remit funds necessary for the payment of interest and sinking fund requirements. The Governor is authorized to transfer from time to time such amounts to the municipal bond commission as may be necessary for these purposes.

The municipal bond commission shall reimburse the state of West Virginia through the Governor from the first remittance collected from the West Virginia housing development fund or from any state agency or local taxing district for which the Governor advanced funds, with interest at the rate carried by the bonds for security or payment of which the advance was made.

Sec. 17. Appropriations for local governments. — There are hereby appropriated for payment to counties, districts and municipal corporations such amounts as will be
necessary to pay taxes due counties, districts and municipal
corporations and which have been paid into the treasury:

(a) For redemption of lands;
(b) By public service corporations;
(c) For tax forfeitures.

Sec. 18. Total appropriations. — Where only a total
sum is appropriated to a spending unit, the total sum shall
include personal services and employee benefits, annual
increment, current expenses, repairs and alterations,
buildings, equipment, other assets, land, and capital outlay,
where not otherwise specifically provided and except as
otherwise provided in TITLE I – GENERAL
PROVISIONS, Sec. 3.

Sec. 19. General school fund. — The balance of the
proceeds of the general school fund remaining after the
payment of the appropriations made by this act is
appropriated for expenditure in accordance with W.Va.
Code §18-9A-16.

TITLE III – ADMINISTRATION
§1. Appropriations conditional
§2. Constitutionality

Sec. 1. Appropriations conditional. — The
expenditure of the appropriations made by this act, except
those appropriations made to the legislative and judicial
branches of the state government, are conditioned upon the
compliance by the spending unit with the requirements of
Article 2, Chapter 11B of the Code.

Where spending units or parts of spending units have
been absorbed by or combined with other spending units, it
is the intent of this act that appropriations and
reappropriations shall be to the succeeding or later spending
unit created, unless otherwise indicated.
Sec. 2. Constitutionality. — If any part of this act is declared unconstitutional by a court of competent jurisdiction, its decision shall not affect any portion of this act which remains, but the remaining portion shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.
(a) General. — Any tax, additions to tax, penalties or interest due and payable under this article or any of the other articles of this chapter to which this article is applicable is a debt due this state. It is a personal obligation of the taxpayer and is a lien upon the real and personal property of the taxpayer.

(b) Duration of lien. — The lien created by this section continues until the liability for the tax, additions to tax, penalties and interest is satisfied or upon the expiration of ten years from the date the tax, additions to tax, penalties and interest are due and payable under section eight of this article or the date the tax return is filed, whichever is later.

(c) Recordation. — The lien created by this section is subject to the restrictions and conditions embodied in article ten-c, chapter thirty-eight of this code and any amendment made or which may hereafter be made thereto: Provided, That the notice of lien shall indicate the date the tax, additions to tax, penalties and interest are due and payable under section eight of this article or the date the tax return was filed and the lien expiration date.

(d) Release or subordination. — The Tax Commissioner, pursuant to rules prescribed by him or her, may issue his or her certificate of release of any lien created pursuant to this section when the debt is adequately secured by bond or other security. He or she shall issue his or her certificate of release when the debt secured has been satisfied. The certificate of release shall be issued in duplicate. One copy shall be forwarded to the taxpayer and the other copy shall be forwarded to the clerk of the county commission of the county wherein the lien is recorded. The clerk of the county commission shall record the release without payment of any fee and the recordation is a release and full discharge of the lien. The Tax Commissioner may issue his or her certificate of release of the lien as to all or any part of the property subject to the lien, or may subordinate the lien to any other lien or interest, but only if there is paid to the state an amount not less than the value
of the interest of the state in the property, or if the interest
of the state in the property has no value.

(e) **Foreclosure.** — The Tax Commissioner may
enforce any lien created and recorded under this section,
against any property subject to the lien by civil action in the
circuit court of the county wherein the property is located,
in order to subject the property to the payment of the tax
secured by the lien. All persons having liens upon or having
any interest in the property shall be made parties to the
action. The court may appoint a receiver or commissioner
who shall ascertain and report all liens, claims and interests
in and upon the property, the validity, amount and priority
of each. The court shall, after notice to all parties, proceed
to adjudicate all matters involved therein, shall determine
the validity, amount and priorities of all liens, claims and
interests in and upon the property and shall decree a sale of
the property by the sheriff or any commissioner to whom
the action is referred, and shall decree distribution of the
proceeds of the sale according to the findings of the court in
respect to the interests of the parties.

(f) **Discharge of lien.** — A sale of property against
which the state has a lien under this section, made pursuant
to an instrument creating a lien on the property or made
pursuant to a statutory lien on the property, or made
pursuant to a judicial order to enforce any judgment in any
civil action, shall be made subject to and without disturbing
the state tax lien if the state tax lien was recorded more than
thirty days before the sale, unless:

(1) The Tax Commissioner is made a party to the civil
action;

(2) The Tax Commissioner is given notice of the sale in
writing not less than fifteen days prior to sale; or

(3) The Tax Commissioner consents to the sale. The
notice shall contain the name of the owner of the property
(g) **Withdrawal of lien.** —

(1) The Tax Commissioner or the Tax Commissioner’s designee may withdraw a tax lien upon making one or more of the following determinations:

(A) The lien was recorded prematurely, inadvertently or otherwise erroneously; or

(B) The taxpayer voluntarily and through due diligence paid the lien, fulfilled a payment plan agreement, fulfilled the terms of an offer in compromise, timely provided supporting documentation or paid the lien in good faith.

(2) A withdrawal of the lien shall be issued in duplicate. One copy shall be forwarded to the taxpayer and the other copy shall be forwarded to the clerk of the county commission of the county wherein the lien is recorded. The clerk of the county commission shall record the withdrawal of lien without payment of any fee.

(h) **Release of lien.** — Subject to such rules as the Tax Commissioner may prescribe, pursuant to article three, chapter twenty-nine-a of this code, the Tax Commissioner shall issue a certificate of release of any lien imposed with respect to any tax or fee administered under this article not later than sixty days after the day on which the Tax Commissioner finds that the liability for the amount assessed, together with all interest and additions to tax in respect thereof, has been fully satisfied: Provided, That subject to such rules as the Tax Commissioner may prescribe pursuant to article three, chapter twenty-nine-a of this code, the Tax Commissioner shall withdraw, release or otherwise terminate any lien imposed with respect to any tax or fee administered under this article, upon the determining that the lien is unenforceable, or in accordance with such other criteria as the Tax Commissioner may prescribe pursuant to rule.
CHAPTER 38. LIENS.

ARTICLE 10C. STATE AND LOCAL TAX LIENS.

§38-10C-2. Notices of liens of state, political subdivisions and municipalities to be filed; indexes; withdrawal release.

It is the duty of the Tax Commissioner, or the proper officers of the political subdivisions of the state for its subdivisions and of the proper officers of the municipalities for the municipalities, having liens, to file a notice of the liens in the office of the clerk of the county commission of the county in which the property of the taxpayer against whom the lien is claimed, is situate, stating in the notice what amount of money is owing to the State of West Virginia, the political subdivision or the municipality, on account of the lien from the taxpayer owing the money; and the clerk of the county commission of the county shall, upon the filing of notice, index the lien in the judgment or tax lien docket in his or her office as a tax lien against the taxpayer in favor of the State of West Virginia, the political subdivision or the municipality. Upon the determination of the Tax Commissioner or the Tax Commissioner’s designee that the lien should be withdrawn, a withdrawal of the lien shall be issued in duplicate. One copy shall be forwarded to the taxpayer, and the other copy shall be forwarded to the clerk of the county commission of the county wherein the lien is recorded. The clerk of the county commission shall record the withdrawal of lien without payment of any fee. Upon the satisfaction of the lien, a release of the lien for recordation shall be signed and delivered to the taxpayer by the proper officer. The signature of the Tax Commissioner or the Tax Commissioner’s designee on the notice and on the release or withdrawal may be either a properly acknowledged manual signature or a facsimile signature authenticated pursuant to the filing of an affidavit and a manual signature with the Secretary of State in the manner specified in section two, article fourteen, chapter six of this code. The facsimile signature has the same legal effect as the manual signature.
AN ACT to repeal §30-3E-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5-19 of said code; to amend and reenact §30-3-5 of said code; to amend and reenact §30-3E-1, §30-3E-2, §30-3E-3, §30-3E-4, §30-3E-6, §30-3E-7, §30-3E-9, §30-3E-10, §30-3E-11, §30-3E-12, §30-3E-15, §30-3E-16 and §30-3E-17 of said code; to amend said code by adding thereto a new section, designated §30-3E-12a; and to amend and reenact §33-15-14 of said code, all relating to physician assistants; modifying board membership; substituting “collaborating physician” for “supervising physician”; defining terms; modifying the prescriptive authority of physician assistants; eliminating certain recertification requirements; eliminating the continuous national certification requirement; prohibiting an insurance plan from limiting the practice of physician assistants; adding requirements for practice agreements; granting physician assistants signatory authority on certain forms; and making conforming amendments.

Be it enacted by the Legislature of West Virginia:

That §30-3E-8 of the Code of West Virginia, 1931, as amended, be repealed; that §16-5-19 of said code be amended and reenacted; that §30-3-5 of said code be amended and reenacted; that §30-3E-1, §30-3E-2, §30-3E-3, §30-3E-4, §30-3E-6, §30-3E-7, §30-3E-9, §30-3E-10, §30-3E-11, §30-3E-12, §30-3E-15, §30-3E-16 and §30-3E-17 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated
§30-3E-12a; and that §33-15-14 of said code be amended and
reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5. VITAL STATISTICS.

§16-5-19. Death registration.

(a) A certificate of death for each death which occurs in
this state shall be filed with the section of vital statistics, or
as otherwise directed by the State Registrar, within five days
after death, and prior to final disposition, and shall be
registered if it has been completed and filed in accordance
with this section.

(1) If the place of death is unknown, but the dead body
is found in this state, the place where the body was found
shall be shown as the place of death.

(2) If the date of death is unknown, it shall be
approximated. If the date cannot be approximated, the date
found shall be shown as the date of death.

(3) If death occurs in a moving conveyance in the
United States and the body is first removed from the
conveyance in this state, the death shall be registered in this
state and the place where it is first removed shall be
considered the place of death.

(4) If death occurs in a moving conveyance while in
international waters or air space or in a foreign country or
its air space and the body is first removed from the
conveyance in this state, the death shall be registered in this
state but the certificate shall show the actual place of death
insofar as can be determined.

(5) In all other cases, the place where death is
pronounced shall be considered the place where death
occurred.
(b) The funeral director or other person who assumes custody of the dead body shall:

(1) Obtain the personal data from the next of kin or the best qualified person or source available including the deceased person’s social security number or numbers, which shall be placed in the records relating to the death and recorded on the certificate of death;

(2) Within forty-eight hours after death, provide the certificate of death containing sufficient information to identify the decedent to the physician nurse responsible for completing the medical certification as provided in subsection (c) of this section; and

(3) Upon receipt of the medical certification, file the certificate of death: Provided, That for implementation of electronic filing of death certificates, the person who certifies to cause of death will be responsible for filing the electronic certification of cause of death as directed by the State Registrar and in accordance with legislative rule.

(c) The medical certification shall be completed and signed within twenty-four hours after receipt of the certificate of death by the physician, physician assistant or advanced practice registered nurse in charge of the patient’s care for the illness or condition which resulted in death except when inquiry is required pursuant to chapter sixty-one, article twelve or other applicable provisions of this code.

(1) In the absence of the physician, physician assistant or advanced practice registered nurse or with his or her approval, the certificate may be completed by his or her associate physician, any physician who has been placed in a position of responsibility for any medical coverage of the decedent, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided inquiry is not required pursuant to chapter sixty-one, article twelve of this code.
(2) The person completing the cause of death shall attest to its accuracy either by signature or by an approved electronic process.

(d) When inquiry is required pursuant to article twelve, chapter sixty-one or other applicable provisions of this code, the state Medical Examiner or designee or county medical examiner or county coroner in the jurisdiction where the death occurred or where the body was found shall determine the cause of death and shall complete the medical certification within forty-eight hours after taking charge of the case.

(1) If the cause of death cannot be determined within forty-eight hours after taking charge of the case, the medical examiner shall complete the medical certification with a “Pending” cause of death to be amended upon completion of medical investigation.

(2) After investigation of a report of death for which inquiry is required, if the state Medical Examiner or designee or county medical examiner or county coroner decline jurisdiction, the state Medical Examiner or designee or county medical examiner or county coroner may direct the decedent’s family physician or the physician who pronounces death to complete the certification of death: Provided, That the physician is not civilly liable for inaccuracy or other incorrect statement of death unless the physician willfully and knowingly provides information he or she knows to be false.

(e) When death occurs in an institution and the person responsible for the completion of the medical certification is not available to pronounce death, another physician may pronounce death. If there is no physician available to pronounce death, then a designated licensed health professional who views the body may pronounce death, attest to the pronouncement by signature or an approved electronic process and, with the permission of the person responsible for the medical certification, release the body to
the funeral director or other person for final disposition: Provided, That if the death occurs in an institution during court-ordered hospitalization, in a correctional facility or under custody of law-enforcement authorities, the death shall be reported directly to a medical examiner or coroner for investigation, pronouncement and certification.

(f) If the cause of death cannot be determined within the time prescribed, the medical certification shall be completed as provided by legislative rule. The attending physician or medical examiner, upon request, shall give the funeral director or other person assuming custody of the body notice of the reason for the delay, and final disposition of the body may not be made until authorized by the attending physician, medical examiner or other persons authorized by this article to certify the cause of death.

(g) Upon receipt of autopsy results, additional scientific study, or where further inquiry or investigation provides additional information that would change the information on the certificate of death from that originally reported, the certifier or any State Medical Examiner who provides such inquiry under authority of article twelve, chapter sixty-one of this code shall immediately file a supplemental report of cause of death or other information with the section of vital statistics to amend the record, but only for purposes of accuracy.

(h) When death is presumed to have occurred within this state but the body cannot be located, a certificate of death may be prepared by the state Registrar only upon receipt of an order of a court of competent jurisdiction which shall include the finding of facts required to complete the certificate of death. The certificate of death will be marked “Presumptive” and will show on its face the date of death as determined by the court and the date of registration, and shall identify the court and the date of the order.

(i) The local registrar shall transmit each month to the county clerk of his or her county a copy of the certificates
of all deaths occurring in the county, and if any person dies in a county other than the county within the state in which the person last resided prior to death, then the state Registrar shall furnish a copy of the death certificate to the clerk of the county commission of the county where the person last resided, from which copies the clerk shall compile a register of deaths, in a form prescribed by the state Registrar. The register shall be a public record.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-5. West Virginia Board of Medicine powers and duties continued; appointment and terms of members; vacancies; removal.

The West Virginia Board of Medicine has assumed, carried on and succeeded to all the duties, rights, powers, obligations and liabilities heretofore belonging to or exercised by the Medical Licensing Board of West Virginia. All the rules, orders, rulings, licenses, certificates, permits and other acts and undertakings of the medical licensing board of West Virginia as heretofore constituted have continued as those of the West Virginia Board of Medicine until they expired or were amended, altered or revoked. The board remains the sole authority for the issuance of licenses to practice medicine and surgery and to practice podiatry and to practice as physician assistants in this state under the supervision of physicians licensed under this article. The board shall continue to be a regulatory and disciplinary body for the practice of medicine and surgery and the practice of podiatry and for physician assistants in this state.

The board shall consist of sixteen members. One member shall be the state health officer ex officio, with the right to vote as a member of the board. The other fifteen members shall be appointed by the Governor, with the advice and consent of the Senate. Eight of the members shall
be appointed from among individuals holding the degree of doctor of medicine and two shall hold the degree of doctor of podiatric medicine. Two members shall be physician assistants licensed by the board. Each of these members must be duly licensed to practice his or her profession in this state on the date of appointment and must have been licensed and actively practicing that profession for at least five years immediately preceding the date of appointment. Three lay members shall be appointed to represent health care consumers. Neither the lay members nor any person of the lay members’ immediate families shall be a provider of or be employed by a provider of health care services. The state health officer’s term shall continue for the period that he or she holds office as state health officer. Each other member of the board shall be appointed to serve a term of five years: Provided, That the members of the Board of Medicine holding appointments on the effective date of this section shall continue to serve as members of the Board of Medicine until the expiration of their term unless sooner removed. Each term shall begin on October 1 of the applicable year and a member may not be appointed to more than two consecutive full terms on the board.

A person is not eligible for membership on the board who is a member of any political party executive committee or, with the exception of the state health officer, who holds any public office or public employment under the federal government or under the government of this state or any political subdivision thereof.

In making appointments to the board, the Governor shall, so far as practicable, select the members from different geographical sections of the state. When a vacancy on the board occurs and less than one year remains in the unexpired term, the appointee shall be eligible to serve the remainder of the unexpired term and two consecutive full terms on the board.

No member may be removed from office by the Governor except for official misconduct, incompetence,
59 neglect of duty or gross immorality: Provided, That the
60 expiration, surrender or revocation of the professional
61 license by the board of a member of the board shall cause
62 the membership to immediately and automatically
63 terminate.

ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE
ACT.

§30-3E-1. Definitions.

As used in this article:

1 (1) “Advance duties” means medical acts that require
2 additional training beyond the basic education program
3 training required for licensure as a physician assistant.

5 (2) “Alternate collaborating physician” means one or
6 more physicians licensed in this state and designated by the
7 collaborating physician to provide collaboration with a
8 physician assistant in accordance with an authorized
9 practice agreement.

10 (3) “Approved program” means an educational program
11 for physician assistants approved and accredited by the
12 Accreditation Review Commission on Education for the
13 Physician Assistant or its successor. Prior to 2001, approval
14 and accreditation would have been by either the Committee
15 on Allied Health Education and Accreditation or the
16 Accreditation Review Commission on Education for the
17 Physician Assistant.

18 (4) “Boards” means the West Virginia Board of
19 Medicine and the West Virginia Board of Osteopathic
20 Medicine.

21 (5) “Chronic condition” means a condition which lasts
22 three months or more, generally cannot be prevented by
23 vaccines, can be controlled but not cured by medication and
24 does not generally disappear. These conditions include, but
are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures and obesity.

(6) “Collaborating physician” means a doctor of medicine, osteopathy or podiatry fully licensed, by the appropriate board in this state, without restriction or limitation, who collaborates with physician assistants.

(7) “Collaboration” means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. Constant physical presence of the collaborating physician is not required as long as the collaborating physician and physician assistant are, or can be, easily in contact with one another by telecommunication. Collaboration does not require the personal presence of the collaborating physician at the place or places where services are rendered.

(8) “Endorsement” means a summer camp or volunteer endorsement authorized under this article.

(9) “Health care facility” means any licensed hospital, nursing home, extended care facility, state health or mental institution, clinic or physician’s office.

(10) “Hospital” means a facility licensed pursuant to article five-b, chapter sixteen of this code and any acute-care facility operated by the state government that primarily provides inpatient diagnostic, treatment or rehabilitative services to injured, disabled or sick persons under the supervision of physicians and includes psychiatric hospitals.

(11) “License” means a license issued by either of the boards pursuant to the provisions of this article.

(12) “Licensee” means a person licensed pursuant to the provisions of this article.

(13) “Physician” means a doctor of allopathic or osteopathic medicine who is fully licensed pursuant to the
provisions of either article three or article fourteen of this chapter to practice medicine and surgery in this state.

(14) “Physician assistant” means a person who meets the qualifications set forth in this article and is licensed pursuant to this article to practice medicine under collaboration.

(15) “Practice agreement” means a document that is executed between a collaborating physician and a physician assistant pursuant to the provisions of this article, and is filed with and approved by the appropriate licensing board.

§30-3E-2. Powers and duties of the boards.

In addition to the powers and duties set forth in this code for the boards, the boards shall:

(1) Establish the requirements for licenses and temporary licenses pursuant to this article;

(2) Establish the procedures for submitting, approving and rejecting applications for licenses and temporary licenses;

(3) Propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article;

(4) Compile and publish an annual report that includes a list of currently licensed physician assistants, their collaborating physicians and their locations in the state; and

(5) Take all other actions necessary and proper to effectuate the purposes of this article.

§30-3E-3. Rulemaking.

(a) The boards shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article, including:
(1) The extent to which physician assistants may practice in this state;

(2) The extent to which physician assistants may pronounce death;

(3) Requirements for licenses and temporary licenses;

(4) Requirements for practice agreements;

(5) Requirements for continuing education;

(6) Conduct of a licensee for which discipline may be imposed;

(7) The eligibility and extent to which a physician assistant may prescribe at the direction of his or her collaborating physician, including:

A state formulary classifying those categories of drugs which shall not be prescribed by a physician assistant, including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals and general anesthetics. Drugs listed under Schedule III shall be limited to a thirty-day supply without refill. In addition to the above referenced provisions and restrictions and pursuant to a practice agreement as set forth in this article, the rules shall permit the prescribing of an annual supply of any drug, with the exception of controlled substances, which is prescribed for the treatment of a chronic condition, other than chronic pain management. For the purposes of this section, a chronic condition is a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication and does not generally disappear. These conditions, with the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity;
(8) The authority a collaborating physician may
delegate for prescribing, dispensing and administering of
controlled substances, prescription drugs or medical devices
if the practice agreement includes:

(A) A notice of intent to delegate prescribing of
controlled substances, prescription drugs or medical
devices;

(B) An attestation that all prescribing activities of the
physician assistant shall comply with applicable federal and
state law governing the practice of physician assistants;

(C) An attestation that all medical charts or records shall
contain a notation of any prescriptions written by a
physician assistant;

(D) An attestation that all prescriptions shall include the
physician assistant’s name and the collaborating physician’s
name, business address and business telephone number
legibly written or printed; and

(E) An attestation that the physician assistant has
successfully completed each of the requirements established
by the appropriate board to be eligible to prescribe pursuant
to a practice agreement accompanied by the production of
any required documentation establishing eligibility;

(9) A fee schedule; and

(10) Any other rules necessary to effectuate the
provisions of this article.

(b) The boards may propose emergency rules pursuant
to article three, chapter twenty-nine-a of this code to ensure
conformity with this article.

§30-3E-4. License to practice as a physician assistant.

(a) A person seeking licensure as a physician assistant
shall apply to the Board of Medicine or to the Board of
Osteopathic Medicine. The appropriate board shall issue a license to practice as a physician assistant with the collaboration of that board’s licensed physicians or podiatrists.

(b) A license may be granted to a person who:

(1) Files a complete application;

(2) Pays the applicable fees;

(3) Demonstrates to the board’s satisfaction that he or she:

(A) Obtained a baccalaureate or master’s degree from an accredited program of instruction for physician assistants;

(B) Prior to July 1, 1994, graduated from an approved program of instruction in primary health care or surgery; or

(C) Prior to July 1, 1983, was certified by the Board of Medicine as a physician assistant then classified as “Type B”; 

(4) Has passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants;

(5) Has a current certification from the National Commission on Certification of Physician Assistants;

(6) Is mentally and physically able to engage safely in practice as a physician assistant;

(7) Has not had a physician assistant license, certification or registration in any jurisdiction suspended or revoked;

(8) Is not currently subject to any limitation, restriction, suspension, revocation or discipline concerning a physician assistant license, certification or registration in any
jurisdiction: Provided, That if a board is made aware of any problems with a physician assistant license, certification or registration and agrees to issue a license, certification or registration notwithstanding the provisions of this subdivision or subdivision (7) of this subsection;

(9) Is of good moral character; and

(10) Has fulfilled any other requirement specified by the appropriate board.

(c) A board may deny an application for a physician assistant license to any applicant determined to be unqualified by the board.

**§30-3E-6. License renewal requirements.**

(a) A licensee shall renew biennially, on a schedule established by the appropriate licensing board, by submitting:

(1) A complete renewal application;

(2) The renewal fee; and

(3) An attestation that all continuing education requirements for the reporting period have been met.

(b) If a licensee fails to timely renew his or her license, then the license automatically expires.

**§30-3E-7. Expired license requirements.**

(a) If a license automatically expires and reinstatement is sought within one year of the automatic expiration, then an applicant shall submit:

(1) A complete reinstatement application;

(2) The applicable fees;

(3) Proof that he or she has passed Physician Assistant National Certifying Examination; and
(4) An attestation that all continuing education requirements have been met.

(b) If a license automatically expires and more than one year has passed since the automatic expiration, then an applicant shall apply for a new license.

§30-3E-9. Practice requirements.

(a) A physician assistant may not practice independent of a collaborating physician.

(b) Before a licensed physician assistant may practice and before a collaborating physician may delegate medical acts to a physician assistant, the collaborating physician and the physician assistant shall:

(1) File a practice agreement with the appropriate licensing board, including any designated alternate collaborating physicians;

(2) Pay the applicable fees; and

(3) Receive written authorization from the appropriate licensing board to commence practicing as a physician assistant pursuant to the practice agreement.

(c) A physician applying to collaborate with a physician assistant shall affirm that:

(1) The medical services set forth in the practice agreement are consistent with the skills and training of the collaborating physician and the physician assistant; and

(2) The activities delegated to a physician assistant are consistent with sound medical practice and will protect the health and safety of the patient.

(d) A collaborating physician may enter into practice agreements with up to five full-time physician assistants at any one time. A physician is prohibited from being a collaborating or alternate collaborating physician to more
than five physician assistants at any one time. However, a
physician practicing medicine in an emergency department
of a hospital or a physician who collaborating with a
physician assistant who is employed by or on behalf of a
hospital may collaborate with up to five physician assistants
per shift if the physician has an authorized practice
agreement in place with the physician assistant or the
physician has been properly authorized as an alternate
collaborating physician for each physician assistant.

§30-3E-10. Practice agreement requirements.

(a) A practice agreement shall include:

(1) A description of the qualifications of the 
collaborating physician, the alternate collaborating 
physicians, if applicable, and the physician assistant;

(2) A description of the settings in which the 
collaborating physician assistant will practice;

(3) A description of the continuous physician 
collaboration mechanisms that are reasonable and 
appropriate for the practice setting, and the experience and 
training of the physician assistant;

(4) A description of the medical acts that are to be 
delegated;

(5) An attestation by the collaborating physician that the 
medical acts to be delegated are:

(A) Within the collaborating physician’s scope of 
practice; and

(B) Appropriate to the physician assistant’s education, 
training and level of competence;

(6) A description of the medical care the physician 
assistant will provide in an emergency, including a 
definition of an emergency;
(7) A description of the limitation of the ability of the physician assistant to prescribe as set forth in subdivision (7), subsection (a), section three of this article; and

(8) Any other information required by the boards.

(b) A licensing board may:

(1) Decline to authorize a physician assistant to commence practicing pursuant to a practice agreement, if the board determines that:

(A) The practice agreement is inadequate; or

(B) The physician assistant is unable to perform the proposed delegated duties safely; or

(2) Request additional information from the collaborating physician and/or the physician assistant to evaluate the delegation of duties and advanced duties.

(c) A licensing board may authorize a practice agreement that includes advanced duties which are to be performed in a hospital or ambulatory surgical facility, if the practice agreement has a certification that:

(1) A physician, with credentials that have been reviewed by the hospital or ambulatory surgical facility as a condition of employment as an independent contractor or as a member of the medical staff, collaborates with the physician assistant;

(2) The physician assistant has credentials that have been reviewed by the hospital or ambulatory surgical facility as a condition of employment as an independent contractor or as a member of the medical staff; and

(3) Each advanced duty to be delegated to the physician assistant is reviewed and approved within a process approved by the governing body of the health care facility
or ambulatory surgical facility before the physician assistant performs the advanced duties.

(d) If a licensing board declines to authorize a practice agreement or any proposed delegated act incorporated therein, the board shall provide the collaborating physician and the physician assistant with written notice. A physician assistant who receives notice that the board has not authorized a practice agreement or a delegated act shall not practice under the agreement or perform the delegated act.

(e) If a practice agreement is terminated, then a physician assistant shall notify the appropriate licensing board in writing within ten days of the termination. Failure to provide timely notice of the termination constitutes unprofessional conduct and disciplinary proceedings may be instituted by the appropriate licensing board.


(a) A licensed physician or podiatrist may collaborate with a physician assistant:

(1) As a collaborating physician in accordance with an authorized practice agreement; or

(2) As an alternate collaborating physician who:

(A) Collaborates in accordance with an authorized practice agreement;

(B) Has been designated an alternate collaborating physician in the authorized practice agreement; and

(C) Only delegates those medical acts that have been authorized by the practice agreement and are within the scope of practice of both the primary collaborating physician and the alternate collaborating physician.

(b) A collaborating physician is responsible at all times for the physician assistant with whom he or she is collaborating, including:
(1) The legal responsibility of the physician assistant;

(2) Observing, directing and evaluating the physician assistant’s work records and practices; and

(3) Collaborating with the physician assistant in the care and treatment of a patient in a health care facility.

(c) A health care facility is only legally responsible for the actions or omissions of a physician assistant when the physician assistant is employed by or on behalf of the facility. Credentialed medical facility staff and attending physicians of a hospital who provide direction to or utilize physician assistants employed by or on behalf of the hospital are considered alternate collaborating physicians.

§30-3E-12. Scope of practice.

(a) A license issued to a physician assistant by the appropriate state licensing board shall authorize the physician assistant to perform medical acts:

(1) Delegated to the physician assistant as part of an authorized practice agreement;

(2) Appropriate to the education, training and experience of the physician assistant;

(3) Customary to the practice of the collaborating physician; and

(4) Consistent with the laws of this state and rules of the boards.

(b) This article does not authorize a physician assistant to perform any specific function or duty delegated by this code to those persons licensed as chiropractors, dentists, dental hygienists, optometrists or pharmacists, or certified as nurse anesthetists.

§30-3E-12a. Physician assistant signatory authority.
(a) A physician assistant may provide an authorized signature, certification, stamp, verification, affidavit or endorsement on documents within the scope of their practice, including, but not limited to, the following documents:

(1) Death certificates: Provided, That the physician assistant has received training on the completion of death certificates;

(2) “Physician orders for life sustaining treatment”, “physician orders for scope of treatment” and “do not resuscitate” forms;

(3) Handicap hunting certificates; and

(4) Utility company forms requiring maintenance of utilities regardless of ability to pay.

(b) A physician assistant may not sign a certificate of merit for a medical malpractice claim against a physician.

§30-3E-15. Summer camp or volunteer endorsement — West Virginia licensee.

(a) The appropriate licensing board may grant a summer camp or volunteer endorsement to provide services at a children’s summer camp or volunteer services for a public or community event to a physician assistant who:

(1) Is currently licensed by the appropriate licensing board;

(2) Has no current discipline, limitations or restrictions on his or her license;

(3) Has submitted a timely application; and

(4) Attests that:

(A) The organizers of the summer camp and public or community event have arranged for a collaborating
physician to be available as needed to the physician assistant;

(B) The physician assistant shall limit his or her scope of practice to medical acts which are within his or her education, training and experience; and

(C) The physician assistant will not prescribe any controlled substances or legend drugs as part of his or her practice at the summer camp or public or community event.

(b) A physician assistant may only receive one summer camp or volunteer endorsement annually. The endorsement is active for one specifically designated period annually, which period cannot exceed three weeks.

(c) A fee cannot be assessed for the endorsement if the physician assistant is volunteering his or her services without compensation or remuneration.

§30-3E-16. Summer camp or volunteer endorsement — Out-of-state licensee.

(a) The appropriate licensing board may grant a summer camp or volunteer endorsement to provide services at a children’s summer camp or volunteer services for a public or community event to a physician assistant licensed from another jurisdiction who:

(1) Is currently licensed in another jurisdiction and has a current certification from the National Commission on Certification of Physician Assistants;

(2) Has no current discipline, limitations or restrictions on his or her license;

(3) Has passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants;

(4) Has submitted a timely application;
(5) Has paid the applicable fees; and

(6) Attests that:

(A) The organizers of the summer camp and public or community event have arranged for a collaborating physician to be available as needed to the physician assistant;

(B) The physician assistant shall limit his or her scope of practice to medical acts which are within his or her education, training and experience; and

(C) The physician assistant will not prescribe any controlled substances or legend drugs as part of his or her practice at the summer camp or public or community event; and

(7) Has fulfilled any other requirements specified by the appropriate board.

(b) A physician assistant may only receive one summer camp or volunteer endorsement annually. The endorsement is active for one specifically designated period annually, which period cannot exceed three weeks.

§30-3E-17. Complaint process.

(a) All hearings and procedures related to denial of a license, and all complaints, investigations, hearings and procedures regarding a physician assistant license and the discipline accorded thereto, shall be in accordance with the processes and procedures set forth in articles three and/or fourteen of this chapter, depending on which board licenses the physician assistant.

(b) The boards may impose the same discipline, restrictions and/or limitations upon the license of a physician assistant as they are authorized to impose upon physicians and/or podiatrists.
(c) The boards shall direct to the appropriate licensing board a complaint against a physician assistant, a collaborating physician and/or an alternate collaborating physician.

(d) In the event that independent complaint processes are warranted by the boards with respect to the professional conduct of a physician assistant or a collaborating and/or alternate collaborating physician, the boards are authorized to work cooperatively and to disclose to one another information which may assist the recipient appropriate licensing board in its disciplinary process. The determination of what information, if any, to disclose shall be at the discretion of the disclosing board.

(e) A physician assistant licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.


Notwithstanding any other provisions of law, when any health insurance policy, health care services plan or other contract provides for the payment of medical expenses, benefits or procedures, such policy, plan or contract shall be construed to include payment to all health care providers including medical physicians, osteopathic physicians, podiatric physicians, chiropractic physicians, midwives, physician assistants and nurse practitioners who provide medical services, benefits or procedures which are within the scope of each respective provider’s license. Any limitation or condition placed upon services, diagnoses or treatment by, or payment to, any particular type of licensed provider shall apply equally to all types of licensed providers without unfair discrimination as to the usual and customary treatment procedures of any of the aforesaid providers.
AN ACT to amend and reenact §16-2D-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-29B-3 and §16-29B-8 of said code; and to amend said code by adding two new sections, designated §16-29B-24 and §16-29B-25, all relating to West Virginia Health Care Authority; defining terms; clarifying an exemption to the certificate of need; prohibiting the department from limiting the transfer of skilled nursing beds; authorizing legislative rulemaking; establishing an assessment on acute care hospitals; requiring entities file certain information with the authority; permitting the assessing of a penalty for failing to file reports; authorizing the authority to coordinate the collection of health data; requiring the authority to provide access to data; requiring the authority to charge a fee to obtain data; requiring a report to the Legislative Oversight Commission on Health and Human Resources; permitting the secretary to assume control of the data repository if certain conditions are met; authorizing emergency rules to implement the provisions of new article.

Be it enacted by the Legislature of West Virginia:

That §16-2D-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §16-29B-3 and §16-29B-8 of said code be amended and reenacted; and that of said code be amended by adding thereto two new sections designated §16-29B-24 and §16-29B-25, all to read as follows:

ARTICLE 2D. CERTIFICATE OF NEED.
§16-2D-11. Exemptions from certificate of need which require approval from the authority.

(a) To obtain an exemption under this section a person shall:

(1) File an exemption application;

(2) Pay the $1,000 application fee; and

(3) Provide a statement detailing which exemption applies and the circumstances justifying the approval of the exemption.

(b) The authority has forty-five days to review the exemption request. The authority may not hold an administrative hearing to review the application. A person may not file an objection to the request for an exemption. The applicant may request or agree with the authority to a fifteen day extension of the timeframe. If the authority does not approve or deny the application within forty-five days, then the exemption is immediately approved. If the authority denies the approval of the exemption, only the applicant may appeal the authority’s decision to the Office of Judges or refile the application with the authority.

(c) Notwithstanding section eight and ten and except as provided in section nine of this article, the Legislature finds that a need exists and these health services are exempt from the certificate of need process:

(1) The acquisition and utilization of one computed tomography scanner with a purchase price up to $750,000 that is installed in a private office practice where at minimum seventy-five percent of the scans are performed on the patients of the practice. The private office practice shall obtain and maintain accreditation from the American College of Radiology prior to, and at all times during, the offering of this service. The authority may at any time request from the private office practice information relating to the number of patients who have been provided scans and
proof of active and continuous accreditation from the American College of Radiology. If a physician owns or operates a private office practice in more than one location, this exemption shall only apply to the physician’s primary place of business and if a physician wants to expand the offering of this service to include more than one computed topography scanner, he or she shall be required to obtain a certificate of need prior to expanding this service. All current certificates of need issued for computed tomography services, with a required percentage threshold of scans to be performed on patients of the practice in excess of seventy-five percent, shall be reduced to seventy-five percent: Provided, That these limitations on the exemption for a private office practice with more than one location shall not apply to a private office practice with more than twenty locations in the state on April 8, 2017.

(2) (A) A birthing center established by a nonprofit primary care center that has a community board and provides primary care services to people in their community without regard to ability to pay; or

(B) A birthing center established by a nonprofit hospital with less than one hundred licensed acute care beds.

(i) To qualify for this exemption, an applicant shall be located in an area that is underserved with respect to low-risk obstetrical services; and

(ii) Provide a proposed health service area.

(3) (A) A health care facility acquiring major medical equipment, adding health services or obligating a capital expenditure to be used solely for research;

(B) To qualify for this exemption, the health care facility shall show that the acquisition, offering or obligation will not:
(i) Affect the charges of the facility for the provision of medical or other patient care services other than the services which are included in the research;

(ii) Result in a substantial change to the bed capacity of the facility; or

(iii) Result in a substantial change to the health services of the facility.

(C) For purposes of this subdivision, the term "solely for research" includes patient care provided on an occasional and irregular basis and not as part of a research program;

(4) The obligation of a capital expenditure to acquire, either by purchase, lease or comparable arrangement, the real property, equipment or operations of a skilled nursing facility. Provided, That a skilled nursing facility developed pursuant to subdivision (17) of this section and subsequently acquired pursuant to this subdivision may not transfer or sell any of the skilled nursing home beds of the acquired skilled nursing facility until the skilled nursing facility has been in operation for at least ten years.

(5) Shared health services between two or more hospitals licensed in West Virginia providing health services made available through existing technology that can reasonably be mobile. This exemption does not include providing mobile cardiac catheterization;

(6) The acquisition, development or establishment of a certified interoperable electronic health record or electronic medical record system;

(7) The addition of forensic beds in a health care facility;

(8) A behavioral health service selected by the Department of Health and Human Resources in response to its request for application for services intended to return
children currently placed in out-of-state facilities to the state or to prevent placement of children in out-of-state facilities is not subject to a certificate of need;

(9) The replacement of major medical equipment with like equipment, only if the replacement major medical equipment cost is more than the expenditure minimum;

(10) Renovations within a hospital, only if the renovation cost is more than the expenditure minimum. The renovations may not expand the health care facility’s current square footage, incur a substantial change to the health services, or a substantial change to the bed capacity;

(11) Renovations to a skilled nursing facility;

(12) The donation of major medical equipment to replace like equipment for which a certificate of need has been issued and the replacement does not result in a substantial change to health services. This exemption does not include the donation of major medical equipment made to a health care facility by a related organization;

(13) A person providing specialized foster care personal care services to one individual and those services are delivered in the provider’s home;

(14) A hospital converting the use of beds except a hospital may not convert a bed to a skilled nursing home bed and conversion of beds may not result in a substantial change to health services provided by the hospital;

(15) The construction, renovation, maintenance or operation of a state owned veterans skilled nursing facilities established pursuant to the provisions of article one-b of this chapter;

(16) To develop and operate a skilled nursing facility with no more than thirty-six beds in a county that currently is without a skilled nursing facility;
(17) A critical access hospital, designated by the state as a critical access hospital, after meeting all federal eligibility criteria, previously licensed as a hospital and subsequently closed, if it reopens within ten years of its closure;

(18) The establishing of a health care facility or offering of health services for children under one year of age suffering from Neonatal Abstinence Syndrome;

(19) The construction, development, acquisition or other establishment of community mental health and intellectual disability facility;

(20) Providing behavioral health facilities and services;

(21) The construction, development, acquisition or other establishment of kidney disease treatment centers, including freestanding hemodialysis units but only to a medically underserved population;

(22) The transfer, purchase or sale of intermediate care or skilled nursing beds from a skilled nursing facility or a skilled nursing unit of an acute care hospital to a skilled nursing facility providing intermediate care and skilled nursing services. The Department of Health and Human Resources may not create a policy which limits the transfer, purchase or sale of intermediate care or skilled nursing beds from a skilled nursing facility or a skilled nursing unit of an acute care hospital. The transferred beds shall retain the same certification status that existed at the nursing home or hospital skilled nursing unit from which they were acquired. If construction is required to place the transferred beds into the acquiring nursing home, the acquiring nursing home has one year from the date of purchase to commence construction;

(23) The construction, development, acquisition or other establishment by a health care facility of a nonhealth related project, only if the nonhealth related project cost is more than the expenditure minimum;
(24) The construction, development, acquisition or other establishment of an alcohol or drug treatment facility and drug and alcohol treatment services unless the construction, development, acquisition or other establishment is an opioid treatment facility or programs as set forth in subdivision (4) of section nine of this article;

(25) Assisted living facilities and services;

(26) The creation, construction, acquisition or expansion of a community-based nonprofit organization with a community board that provides or will provide primary care services to people without regard to ability to pay and receives approval from the Health Resources and Services Administration; and

(27) The acquisition and utilization of one computed tomography scanner and/or one magnetic resonance imaging scanner with a purchase price of up to $750,000 by a hospital.

ARTICLE 29B. HEALTH CARE AUTHORITY.

§16-29B-3. Definitions.

(a) Definitions of words and terms defined in article two-d of this chapter are incorporated in this section unless this section has different definitions.

(b) As used in this article, unless a different meaning clearly appears from the context:

(1) “Authority” means the Health Care Authority created pursuant to the provisions of this article;

(2) “Board” means the five-member board of directors of the West Virginia Health Care Authority;

(3) “Charges” means the economic value established for accounting purposes of the goods and services a hospital provides for all classes of purchasers;
(4) “Class of purchaser” means a group of potential hospital patients with common characteristics affecting the way in which their hospital care is financed. Examples of classes of purchasers are Medicare beneficiaries, welfare recipients, subscribers of corporations established and operated pursuant to article twenty-four, chapter thirty-three of this code, members of health maintenance organizations and other groups as defined by the authority;

(5) “Covered facility” means a hospital, behavioral health facility, kidney disease treatment center, including a free-standing hemodialysis unit; ambulatory health care facility; ambulatory surgical facility; home health agency; rehabilitation facility; or community mental health or intellectual disability facility, whether under public or private ownership or as a profit or nonprofit organization and whether or not licensed or required to be licensed, in whole or in part, by the state: Provided, That nonprofit, community-based primary care centers providing primary care services without regard to ability to pay which provide the Secretary with a year-end audited financial statement prepared in accordance with generally accepted auditing standards and with governmental auditing standards issued by the Comptroller General of the United States shall be deemed to have complied with the disclosure requirements of this section.

(6) “Executive Director” or “Director” means the administrative head of the Health Care Authority as set forth in section five-a of this article;

(7) “Health care provider” means a person, partnership, corporation, facility, hospital or institution licensed, certified or authorized by law to provide professional health care service in this state to an individual during this individual's medical, remedial, or behavioral health care, treatment or confinement. For purposes of this article, “health care provider” shall not include the private office practice of one or more health care professionals licensed to
practice in this state pursuant to the provisions of chapter thirty of this code;

(8) “Hospital” means a facility subject to licensure as such under the provisions of article five-b of this chapter, and any acute care facility operated by the state government which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, disabled or sick persons, and does not include state mental health facilities or state long-term care facilities;

(9) “Person” means an individual, trust, estate, partnership, committee, corporation, association or other organization such as a joint stock company, a state or political subdivision or instrumentality thereof or any legal entity recognized by the state;

(10) “Purchaser” means a consumer of patient care services, a natural person who is directly or indirectly responsible for payment for such patient care services rendered by a health care provider, but does not include third-party payers;

(11) “Rates” means all value given or money payable to health care providers for health care services, including fees, charges and cost reimbursements;

(12) “Records” means accounts, books and other data related to health care costs at health care facilities subject to the provisions of this article which do not include privileged medical information, individual personal data, confidential information, the disclosure of which is prohibited by other provisions of this code and the laws enacted by the federal government, and information, the disclosure of which would be an invasion of privacy;

(13) “Related organization” means an organization, whether publicly owned, nonprofit, tax-exempt or for profit,
related to a health care provider through common membership, governing bodies, trustees, officers, stock ownership, family members, partners or limited partners including, but not limited to, subsidiaries, foundations, related corporations and joint ventures. For the purposes of this subsection family members means brothers and sisters, whether by the whole or half blood, spouse, ancestors and lineal descendants;

(14) “Secretary” means the Secretary of the Department of Health and Human Resources; and

(15) “Third-party payor” means any natural person, person, corporation or government entity responsible for payment for patient care services rendered by health care providers.

§16-29B-8. Powers generally; budget expenses of the authority.

(a) The authority may:

(1) Adopt, amend and repeal necessary, appropriate and lawful policy guidelines, and in cooperation with the Secretary, propose rules in accordance with article three, chapter twenty-nine-a of this code;

(2) Hold public hearings, conduct investigations and require the filing of information relating to matters affecting the costs of health care services subject to the provisions of this article and may subpoena witnesses, papers, records, documents and all other data in connection therewith. The board may administer oaths or affirmations in any hearing or investigation;

(3) Exercise, subject to limitations or restrictions herein imposed, all other powers which are reasonably necessary or essential to effect the express objectives and purposes of this article.
(4) Assess a fee on a pro rata basis on hospitals, except critical access hospital, using net patient revenue, as defined under generally accepted accounting principles. The assessment may not exceed a total five one hundredths of one percent of its net patient revenue in a fiscal year. The amount of the assessment shall be determined by the authority based upon the information provided in a hospital’s most recent audited financial statement. The authority shall collect the assessment on a semi-annual basis. Two hundred and fifty thousandths of one percent shall be collected on July 1st. The amount of the second assessment shall be based upon the projected expenses to perform the duties consistent with article twenty-nine-b, chapter sixteen, and article two-d, chapter sixteen, but may not exceed two hundred and fifty thousandths of one percent and shall be collected after the first of January of the next year. The assessment shall be paid into the state treasury and kept as a special revolving fund designated “Health Care Cost Review Fund”, with the moneys in the fund being expendable after appropriation by the Legislature for purposes consistent with article twenty-nine-b, chapter sixteen, article two-d, chapter sixteen. The Secretary may use any balance remaining in the “Health Care Cost Review Fund” at the end of June 30, 2017 to support the financial viability of certain critical access hospitals that operate rural health clinics in West Virginia. Any balance remaining in the fund at the end of June 30, 2018 and thereafter shall not revert to the treasury, but shall remain in said fund and such moneys shall be expendable after appropriation by the Legislature in ensuing fiscal years. The assessment shall terminate on July 1, 2020.

(b) The Legislature finds that health care services will be disrupted and important data could be lost which could create significant hardships upon health care providers and the citizens of this state, therefore an emergency exists and the authority shall promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter
twenty-nine of this code, to effectuate the changes in this article by July 1, 2017.

§16-29B-24. Reports required to be filed.

(a) A covered facility, within one hundred twenty days after the end of its fiscal year, unless an extension be granted by the authority, shall file with the authority its annual financial report prepared by an accountant or auditor.

(b) A covered facility, if applicable by legislative rule, shall submit upon request of the authority but at least annually:

(1) A statement of charges for all services rendered, except a behavioral health facility shall submit its gross rates for its top thirty services by utilization;

(2) The Health Care Authority Financial Report, through the Uniform Reporting System;

(3) The current Uniform Bill form in effect for inpatients. This data is not subject to the provisions of subsection (f), section twenty-five of this article.

(c) The authority may request from a covered facility, except hospitals, the information from subsection (a) and (b) from its related organization.

(d) A home health agency shall annually submit a utilization survey.

(e) A covered facility failing to submit a report to the authority shall be notified by the authority and, if the failure continues for ten days after receipt of the notice, the delinquent facility or organization is subject to a penalty of $1,000 for each day thereafter that the failure continues.

§16-29B-25. Data repository.

(a) The authority shall:
(1) Coordinate and oversee the health data collection of state agencies;

(2) Lead state agencies’ efforts to make the best use of emerging technology to effect the expedient and appropriate exchange of health care information and data, including patient records and reports; and

(3) Coordinate database development, analysis and report to facilitate cost management, review utilization review and quality assurance efforts by state payor and regulatory agencies, insurers, consumers, providers and other interested parties.

(b) A state agency collecting health data shall work through the authority to develop an integrated system for the efficient collection, responsible use and dissemination of data and to facilitate and support the development of statewide health information systems that will allow for the electronic transmittal of all health information and claims processing activities of a state agency within the state and to coordinate the development and use of electronic health information systems within state government.

c) The authority shall establish minimum requirements and issue reports relating to information systems of state health programs, including simplifying and standardizing forms and establishing information standards and reports for capitated managed care programs;

d) The authority shall develop a comprehensive system to collect ambulatory health care data.

e) The authority may access any health-related database maintained or operated by a state agency for the purposes of fulfilling its duties. The use and dissemination of information from that database shall be subject to the confidentiality provisions applicable to that database.

(f) A report, statement, schedule or other filing may not contain any medical or individual information personally
identifiable to a patient or a consumer of health services, whether directly or indirectly.

(g) A report, statement, schedule or other filing filed with the authority is open to public inspection and examination during regular hours. A copy shall be made available to the public upon request upon payment of a fee.

(h) The authority may require the production of any records necessary to verify the accuracy of any information set forth in any statement, schedule or report filed under the provisions of this article.

(i) The authority may provide requested aggregate data to an entity. The authority may charge a fee to an entity to obtain the data collected by the authority. The authority may not charge a fee to a covered entity to obtain the data collected by the authority.

(j) The authority shall provide to the Legislative Oversight Commission on Health and Human Resources Accountability before July 1, 2018, and every other year thereafter, a strategic data collection and analysis plan:

(1) What entities are submitting data;

(2) What data is being collected;

(3) The types of analysis performed on the submitted data;

(4) A way to reduce duplicative data submissions;

(5) The current and projected expenses to operate the data collection and analysis program.

(k) The Secretary of the Department of Health and Human Resources may assume the powers and duties provided to the authority in this section, if the Secretary determines it is more efficient and cost effective to have direct control over the data repository program.
CHAPTER 5

(S. B. 1003 - By Senators Carmichael (Mr. President) and Prezioso)
[By Request of the Executive]

[Passed June 16, 2017; in effect from passage.]
[Approved by the Governor on June 22, 2017.]

AN ACT to repeal §17-16A-18a and §17-16A-23 of the Code of West Virginia, 1931, as amended; to amend and reenact §17-16A-5, §17-16A-6, §17-16A-10, §17-16A-11, §17-16A-13, §17-16A-13a, §17-16A-18, §17-16A-21, §17-16A-22, §17-16A-29 and §17-16A-30 of said code; to amend said code by adding thereto a new section, designated §17-16A-11a; to amend and reenact §17-16D-3 of said code; to amend said code by adding thereto a new section, designated §17A-2-25; to amend and reenact §17A-3-7 of said code; and to amend said code by adding thereto a new section, designated §17A-10-17, all relating generally to the West Virginia Parkways Authority; defining terms; enlarging, restricting and otherwise modifying the powers of the Parkways Authority relating to the issuance of parkways bonds and the authority to charge tolls or fees; permitting the authority to study and evaluate, and, if feasible, develop and implement a single fee program; authorizing the authority to promulgate rules; permitting the authority to impose, in connection with any single fee program, a flat fee in connection with any or all certificates of passenger motor vehicle registration and renewal thereof by the Division of Motor Vehicles; clarifying that Parkways Authority may not charge tolls on certain existing roads absent express legislative authorization; providing for the use of proceeds of fee collections; adding the power of the authority to enter into reciprocal toll enforcement agreements; creating and designating a special revenue account within the State Road Fund known as the State Road Construction
Account; authorizing the deposit of proceeds of parkway revenue bonds to the State Road Construction Account; requiring the expenditure of the account’s funds for construction, maintenance and repair of public highways and bridges in certain counties within the state; creating and designating a special revenue account within the State Treasury known as the West Virginia Parkways Authority Single Fee Program Fund; clarifying notice and public meeting requirements and procedures; requiring either a single fee program or unlimited use single fee EZ Pass transponder discount program before any increase in vehicle rates, tolls or charges may be instituted; establishing limitations on the amounts of the single annual fee that may be charged; clarifying the power of the Parkways Authority to fix rates or tolls for Corridor L toll collection facility; expanding the authority of the Parkways Authority to issue revenue bonds or refunding revenue bonds for parkways’ projects and for the West Virginia Turnpike; modifying approval required of certain county commissions prior to approval of any parkway project; authorizing electronic toll collection and enforcement of tolls on roads, highways and bridges; authorizing implementation and collection of a fee for the single fee program; modifying requirements for reports of local committees and resolutions of approval by county commissions; authorizing the Division of Motor Vehicles to enter into agreements with the authority to collect and remit certain fees; expanding the grounds for refusing to register a motor vehicle; and creating a misdemeanor offense and providing for criminal penalties.

Be it enacted by the Legislature of West Virginia:

That §17-16A-18a and §17-16A-23 of the Code of West Virginia, 1931, as amended, be repealed; that §17-16A-5, §17-16A-6, §17-16A-10, §17-16A-11, §17-16A-13, §17-16A-13a, §17-16A-18, §17-16A-21, §17-16A-22, §17-16A-29 and §17-16A-30 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §17-16A-11a; that §17-16D-3 of said code be amended and reenacted; that
said code be amended by adding thereto a new section, designated §17A-2-25; that §17A-3-7 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §17A-10-17, all to read as follows:

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 16A. WEST VIRGINIA PARKWAYS AUTHORITY.


As used in this article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) “Cost” means the cost of construction, reconstruction, maintenance, improvement, repair and operation of the project, the cost of the acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the Parkways Authority or the Department of Transportation for such construction, reconstruction, maintenance, improvement and repair, the cost of all machinery, equipment, material and labor which are deemed essential thereto, the cost of improvements, the cost of financing charges, interest prior to and during construction and for one year after completion of construction, the cost of traffic estimates and of engineering, consultant, accounting, architects’, trustees’ and legal fees and expenses, plans, specifications, surveys, estimates of cost and of revenues, other costs and expenses necessary or incident to determining the feasibility or practicability of constructing any such project, administrative expenses and such other costs and expenses as may be necessary or incident to the construction of the project, the financing of such construction and the placing of the project in operation or to the operation of the project. Any obligation or expense hereafter incurred by the Department of Transportation with the approval of the Parkways Authority, regardless of whether the approval was authorized before or after the obligation or expense was
incurred, for traffic surveys, borings, preparation of plans and specifications, and other engineering and consulting services in connection with the construction of a parkway project shall be regarded as a part of the cost of such project and may be reimbursed to the state out of the proceeds of parkway revenue bonds or revenue refunding bonds hereinafter authorized.

(b) “Department of Transportation” means the West Virginia Department of Transportation and each of its respective divisions and subordinate agencies, including, without limitation, the Division of Highways.

(c) “Economic development project” means any land or water site, structure, facility or equipment which the Parkways Authority may acquire, create, develop, construct, reconstruct, improve or repair, or previously may have acquired, created, developed, constructed, reconstructed, improved or repaired under the provisions of this article to promote the agricultural, economic or industrial development of the state, together with all property rights, easements and interests which may be acquired by the Parkways Authority for the development, construction or operation of such project.

(d) “Expressway” means any road serving major intrastate and interstate travel, including federal interstate routes.

(e) “Feeder roads” means any road serving community-to-community travel or collects and feeds traffic to an expressway or turnpike.

(f) “Local service road” means any local arterialized and spur roads which provide land access and socioeconomic benefits to abutting properties.

(g) “Owner” means all individuals, co-partnerships, associations or corporations having any title or interest in
any property, rights, easements and interests authorized to be acquired by this article.

(h) “Park and forest roads” means any road serving travel within state parks, state forests and public hunting and fishing areas.

(i) “Parkways Authority” or “authority” means the West Virginia Parkways Authority, or if the Parkways Authority is abolished, the board, body, commission or authority succeeding to the principal functions thereof or to whom the powers given by this article to the Parkways Authority shall be given by law.

(j) “Parkway project” means any expressway, turnpike, bridge, tunnel, trunk line, feeder road, state local service road or park and forest road, or any portion or portions of any expressway, turnpike, trunk line, feeder road, state local service road or park and forest road, whether contiguous or noncontiguous to the West Virginia Turnpike or to any such portion or portions thereof, which the Parkways Authority or the Department of Transportation may acquire, construct, reconstruct, maintain, operate, improve, repair or finance under the provisions of this article, which shall include for all purposes of this article, any acquisition, construction, reconstruction, maintenance, operation, improvement, repair or financing that the authority may undertake by agreement with the Department of Transportation, or any expressway, turnpike or other road constructed by the West Virginia Turnpike Commission pursuant to the authority granted to it under the laws of this state prior to June 1, 1989, and shall embrace all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service stations and administration, storage and other buildings, which the Parkways Authority or the Department of Transportation may deem necessary for the operation of a parkway project, or which is used in the operation of a parkway project, together with all property, rights, easements and interests which may be acquired by the Parkways Authority or the Department of
Transportation for the construction or the operation of a parkway project or which were acquired in connection with or are used in the operation of the turnpike or any other existing parkway project. A parkway project shall also include any enhancements or improvements to the turnpike or any parkway project, including, without limitation, projects involving lane widening, resurfacing, surface replacement, bridge replacement, bridge improvements and enhancements, other bridge work, drainage system improvements and enhancements, drainage system replacements, safety improvements and enhancements, and traffic flow improvements and enhancements, which have been recommended by the authority’s or the Department of Transportation’s consulting engineers or traffic engineers, or both.

(k) “Project” or “projects” means a parkway project, economic development project or tourism project, or any combination thereof.

(l) “Public meeting” means a meeting designed to solicit input and provide information sufficient to allow the public to understand the scope and the costs of a particular project.

(m) “State Road Fund” means the State Road Fund created in article three, chapter seventeen of this code.

(n) “Transportation secretary” means the Secretary of the Department of Transportation.

(o) “Toll revenues” means any amount received by the Parkways Authority from any source as a fee for the right of transit over the West Virginia Turnpike or any other parkway project and any fees paid by owners of registered motor vehicles in the state or any other state collected pursuant to section seventeen, article ten, chapter seventeen-a of this code.

(p) “Tourism project” means:
(1) Any park or tourist facility and attraction which the Parkways Authority may create, develop, construct, reconstruct, improve, maintain or repair or may have previously created, developed, constructed, reconstructed, improved, maintained or repaired under the provisions of this article, and shall include all roads, interchanges, entrance plazas, approaches, service stations, administration, storage and any other buildings or service stations, structures which the Parkways Authority may deem necessary for the operation of the tourism project, together with all property rights, easements and interests which may be acquired by the Parkways Authority for the construction or operation of the tourism project; and

(2) The construction, reconstruction, improvement, maintenance and repair of any park or tourist facility and attraction owned by the state as of June 1, 1989.

(q) “Tourist facility and attraction” mean cabins, lodges, recreational facilities, restaurants and other revenue producing facilities, any land or water site, and any information center, visitors’ center or rest stop which the Parkways Authority determines may improve, enhance or contribute to the development of the tourism industry in the state.

(r) “Trunk line” means any road serving major city-to-city travel.

(s) “Turnpike” means the West Virginia Turnpike or any other toll road in the state.

(t) “West Virginia Turnpike Commission” means the State Turnpike Commission existing as of June 1, 1989.

(u) “West Virginia Turnpike” means the turnpike from Charleston to a point approximately one mile south of the intersection of Interstate 77 and U. S. Route 460 near Princeton in Mercer County, West Virginia, which road is presently a part of the Federal Interstate Highway System.
§17-16A-6. Parkways Authority’s powers.

(a) The Parkways Authority is hereby authorized and empowered:

1. To adopt bylaws for the regulation of its affairs and the conduct of its business;

2. To adopt an official seal and alter the same at pleasure;

3. To maintain an office at such place or places within the state as it may designate;

4. To sue and be sued in its own name, plead and be impleaded. Any and all actions against the Parkways Authority shall be brought only in the county in which the principal office of the Parkways Authority is located;

5. To construct, reconstruct, improve, maintain, repair, operate or finance projects, at such locations within the state or adjacent to the state pursuant to a reciprocal toll enforcement agreement as may be determined by the Parkways Authority: Provided, That after July 1, 2010, the Parkways Authority is prohibited from constructing new tourism projects or new economic development projects, but this prohibition shall not prevent the authority from entering into lease agreements, development agreements or other agreements with private businesses or companies allowing and providing for such private businesses or companies to acquire, develop, construct and operate motels, lodging facilities or other businesses and business facilities on land owned by the authority and located adjacent to the Tamarack project and facilities at Exit 45 of the West Virginia Turnpike;

6. To issue parkway revenue bonds of the State of West Virginia, payable solely from toll revenues, for the purpose of paying all or any part of the cost of any one or more parkway projects;
(7) To issue parkway revenue refunding bonds of the State of West Virginia, payable solely from toll revenues, for any one or more of the following purposes:

(A) Refunding any bonds which shall have been issued under the provisions of this article or any predecessor thereof; and

(B) Repaying to the state all or any part of the state funds used to upgrade the West Virginia Turnpike to federal interstate standards;

(8) To charge, fix and revise, from time to time, tolls or fees for transit over each parkway project constructed or improved or financed by it, by the Department of Transportation or by the West Virginia Turnpike Commission: Provided, That the Parkways Authority may not charge tolls or fees for transit over an existing road without express legislative authorization for the charging of such tolls or fees: Provided, however, That an existing road does not include the West Virginia Turnpike, new lanes or sections of an existing road, the replacement or construction of any bridge or tunnel, or related facilities;

(9) To fix and revise, rents, fees or other charges, of whatever kind or character, for the use of each tourism project or economic development project constructed by it or for the use of any building, structure or facility constructed by it or financed in connection with a parkway project;

(10) To acquire, hold, lease and dispose of real and personal property in the exercise of its powers and the performance of its duties under this article;

(11) To acquire in the name of the state by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the right of condemnation in the manner hereinafter provided, such public or private lands, including public parks, playgrounds
or reservations, or parts thereof or rights therein, rights-of-
way, property, rights, easements and interests, as it may
deed necessary for carrying out the provisions of this
article. No compensation shall be paid for public lands,
playgrounds, parks, parkways or reservations so taken, and
all public property damaged in carrying out the powers
granted by this article shall be restored or repaired and
placed in its original condition as nearly as practicable;

(12) To designate the locations of, and establish, limit
and control such points of ingress to and egress from, each
project as may be necessary or desirable in the judgment of
the Parkways Authority to ensure the proper operation and
maintenance of such project and to prohibit entrance to such
project from any point or points not so designated;

(13) To make and enter into all contracts and
agreements necessary or incidental to the performance of its
duties and the execution of its powers under this article, and
to employ consulting engineers, attorneys, accountants,
architects, construction and financial experts, trustees,
superintendents, managers and such other employees and
agents as may be necessary in its judgment, and to fix their
compensation. All such expenses shall be payable solely
from the proceeds of parkway revenue bonds or parkway
revenue refunding bonds issued under the provisions of this
article or from toll revenues;

(14) To make and enter into all contracts, agreements or
other arrangements with any agency, department, division,
board, bureau, commission, authority or other governmental
unit of the state to operate, maintain or repair any project;

(15) To receive and accept from any federal agency
grants for or in aid of the construction of any project, and to
receive and accept aid or contributions from any source of
either money, property, labor or other things of value, to be
held, used and applied only for the purposes for which such
grants and contributions may be made;
(16) To study, investigate, evaluate and, if feasible, develop and implement a “single fee” program the purpose of which is to charge a flat fee to owners of motor vehicles registered in this state who opt into any such program or any other state which opts into any such program: Provided, That any single fee program shall apply only to passenger motor vehicles, divided into classes based on size and usage, and shall not apply to commercial motor vehicles. The flat fee shall be set by the authority at a rate or amount so that the aggregate of all toll revenues estimated to be received by the authority at the time of fixing any such rate or amount, or any increase thereof, provides sufficient toll revenues consistent with the purposes set forth in section thirteen of this article and to cover the administrative costs of any such single fee program. The separate fee shall be collected by adding it to the annual cost of vehicle registration as an additional fee payable solely to the authority pursuant to section seventeen, article ten, chapter seventeen-a of this code. A registered motor vehicle for which such single program fee has been paid shall be entitled to traverse all toll roads within the state without stopping to pay individual tolls during the effective period of said vehicle registration. The single fee program may also include comparable provisions which would allow vehicles registered in other states to traverse West Virginia toll roads in like fashion to West Virginia vehicles as set forth in this section upon the payment of a single fee for each and every vehicle registered in such state, in accordance with the same classification system adopted for West Virginia vehicles. The Parkways Authority, in consultation with the Division of Motor Vehicles, shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement any single fee program under this subdivision (16);

(17) To enter into reciprocal toll enforcement agreements with other toll agencies in this state or in any other state or foreign country;
(18) To do all acts and things necessary or convenient to carry out the powers expressly granted in this article; and

(19) To file the necessary petition or petitions pursuant to federal bankruptcy laws.). The State of West Virginia hereby consents to the application of Title 11 of the United States Code to the Parkways Authority.

(b) Nothing in this article shall be construed to prohibit the issuance of parkway revenue refunding bonds in a common plan of financing with the issuance of parkway revenue bonds.


(a) The Parkways Authority is authorized to provide by resolution for the issuance of parkway revenue bonds of the state for the purpose of paying all or any part of the cost of one or more parkway projects. The principal of and the interest on bonds shall be payable solely from the funds provided for payment, except that:

(1) None of the proceeds of the issuance of parkway revenue bonds under this section shall be used to pay all or any part of the cost of any economic development project or tourism project;

(2) Nothing in this section shall be construed as prohibiting the Parkways Authority from issuing additional parkway revenue bonds to the extent permitted by applicable federal law for the purpose of constructing, maintaining and operating any highway constructed, in whole or in part, with money obtained from the Appalachian Regional Commission; and

(3) The authorization to issue bonds under this section is in addition to the authorization and power to issue bonds under any other section of this code.

(b) The bonds of each issue shall be dated, shall bear interest at a rate as may be determined by the Parkways
Authority in its sole discretion, shall mature at a time not exceeding forty years from their date of issue as may be determined by the Parkways Authority, and may be made redeemable before maturity, at the option of the Parkways Authority at a price and under the terms and conditions as may be fixed by the Parkways Authority prior to the issuance of the bonds.

(c) The Parkways Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination of the bonds and the place of payment of principal and interest, which may be at any bank or trust company or securities depository within or without the state.

(d) The bonds shall be executed by manual or facsimile signature by the chair of the Parkways Authority, and the official seal of the Parkways Authority shall be affixed to or printed on each bond, and attested, manually or by facsimile signature, by the Secretary and Treasurer of the Parkways Authority. Any coupons attached to any bond shall bear the manual or facsimile signature of the chair of the Parkways Authority.

(e) In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons shall cease to be an officer before the delivery of the bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery. In case the seal of the Parkways Authority has been changed after a facsimile has been imprinted on the bonds, then the facsimile seal will continue to be sufficient for all purposes.

(f) All bonds issued under the provisions of this article shall have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state. The bonds may be issued in coupon or in registered form, or both, as the Parkways Authority may determine, and provision may be made for the registration of any
coupon bonds as to principal alone and also as to both principal and interest, and for the recorders into coupon bonds of any bonds registered as to both principal and interest.

(g) The Parkways Authority may sell the bonds at a public or private sale at a price it determines to be in the best interests of the state.

(h) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the parkway project or parkway projects and by the Division of Highways for any acquisition, construction, reconstruction, maintenance, improvement or repair of public highways and bridges as provided for in this article for which the bonds were issued, and shall be disbursed in a manner consistent with the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds.

(i) If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than the cost, then additional bonds may in like manner be issued to provide the amount of the deficit. Unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds, the additional bonds shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued.

(j) If the proceeds of the bonds of any issue exceed the cost of the parkway project or parkway projects for which the bonds were issued, then the surplus shall be deposited to the credit of the sinking fund for the bonds.

(k) Prior to the preparation of definitive bonds, the Parkways Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The
Parkways Authority may also provide for the replacement of any bonds that become mutilated or are destroyed or lost.

(l) All or any portion of the proceeds of any parkway revenue bonds issued pursuant to this section may be credited to the special revenue account within the State Road Fund created in section eleven of this article. Moneys in such fund shall be used by the Division of Highways for any acquisition, construction, reconstruction, maintenance, improvement or repair of public highways and bridges in this state.

(m) Bonds may be issued under the provisions of this article without obtaining the consent of any department, division, commission, board, bureau or agency of the state in accordance with this article: Provided, That the Parkways Authority shall comply with the provisions of section twenty-eight, article one, chapter five of this code.


(a) There is hereby created within the State Road Fund a special revenue account to be known as the State Road Construction Account held in the State Treasury to be expended by the Division of Highways for construction, maintenance and repair of public highways and bridges in this state. The State Road Construction Account created in this section is a special revenue account in the State Treasury and is not part of the state General Revenue Fund.

(b) The State Road Construction Account shall consist of:

(1) All or any portion of the proceeds of any parkway revenue bonds issued pursuant to section ten of this article that the Parkways Authority, in its discretion, may credit to the State Road Construction Account, notwithstanding any provision of said section to the contrary;
ROADS AND HIGHWAYS [Ch. 5

(2) Any appropriations, grants, gifts, contributions or other revenues received by the State Road Construction Account from any source; and

(3) All interest earned on moneys held in the account.

(c) The funds in the special revenue account created by this section will be expended by the Division of Highways for the costs of acquisition, construction, reconstruction, maintenance, improvement or repair of public highways and bridges, as contained in the Division of Highways’ Statewide Transportation Improvement Plan as it existed on June 1, 2017, or the West Virginia Division of Highways SOS Transportation Investment Program Candidate Project List dated May 3, 2017, in the following counties:

(1) Raleigh County;
(2) Fayette County;
(3) Wyoming County;
(4) Mercer County;
(5) Kanawha County;
(6) Greenbrier County;
(7) Monroe County;
(8) Summers County;
(9) McDowell County; and
(10) Nicholas County.


There is hereby created within the State Treasury a special account within the State Road Fund, designated the
West Virginia Parkways Authority Single Fee Program Fund. The account shall consist of any fees received from owners of registered motor vehicles in the state or any other state that have opted in under any single fee program that may be created and implemented by the authority pursuant to section six of this article. The account shall be administered by the Parkways Authority and expenditures from the fund shall be used exclusively by the authority for the purposes authorized in section thirteen of this article and for administrative costs related to any single fee program implemented by the Parkways Authority under subdivision (16), subsection (a), section six of this article.

§17-16A-13. Tolls, rents, fees, charges and revenues; competitive bidding on contracts.

(a) The Parkways Authority is hereby authorized to fix, revise, charge and collect tolls and fees for the use of each parkway project and the different parts or sections thereof and to fix, revise, charge and collect rents, fees, charges and other revenues, of whatever kind or character, for the use of each economic development project or tourism project, or any part or section thereof, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon telephone, fiber optic or other data transmission lines or devices, electric light, power or other utility lines, gas stations, garages, stores, hotels, restaurants and advertising signs, or for any other purpose except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of charges for such use: Provided, That the Parkways Authority may not charge tolls or fees for transit over an existing road without express legislative authorization for the charging of such tolls or fees: Provided, however, That an existing road does not include the West Virginia Turnpike, new lanes or new sections of an existing road, the replacement or construction of any bridge or tunnel, or related facilities. Such tolls, rents, fees and charges shall be so fixed and adjusted in respect of the aggregate of tolls, or in respect of the aggregate rents,
fees and charges, from the project or projects in connection
with which the bonds of any issue shall have been issued as
to provide a fund sufficient with other revenues, if any: (1)
To pay the cost of acquiring, constructing, reconstructing,
maintaining, repairing, improving and operating such
project or projects and to create reserves therefor; (2) to pay
the principal of and the interest on such bonds and related
costs and expenses as the same shall become due and
payable, and to create reserves for such purposes; and (3) to
comply with any covenants under any trust agreement
securing any bonds issued by the Parkways Authority, or
any predecessor thereof, or to maintain bond credit ratings.
Such tolls, rents, fees and other charges shall not be subject
to supervision or regulation by any other commission,
board, bureau, department or agency of the state. The tolls,
rents, fees, charges and all other revenues derived from the
project or projects in connection with which the bonds of
any issue shall have been issued, except such part thereof as
may be necessary to pay the cost of acquiring, constructing,
reconstructing, maintaining, improving, repairing and
operating such project or projects and to provide such
reserves therefor as may be provided in the resolution
authorizing the issuance of such bonds or in the trust
agreement securing the same, shall be set aside at regular
intervals as may be provided in the resolution or the trust
agreement in a sinking fund which is hereby pledged to, and
charged with, the payment of: (i) The interest upon the
bonds as such interest shall fall due; (ii) the principal of the
bonds as the same shall fall due; (iii) the necessary charges
of paying agents and trustees for paying principal and
interest; and (iv) the redemption price or the purchase price
of bonds retired by call or purchase as therein provided. The
use and disposition of moneys to the credit of such sinking
fund shall be subject to the provisions of the resolution
authorizing the issuance of the bonds or of the trust
agreement. Except as may otherwise be provided in the
resolution or the trust agreement, such sinking fund shall be
a fund for all bonds without distinction or priority of one
over another. The moneys in the sinking fund, less such
reserve as may be provided in the resolution or trust agreement, if not used within a reasonable time for the purchase of bonds for cancellation as above provided, shall be applied to the redemption of bonds at the redemption price then applicable.

(b) The Parkways Authority shall cause, as soon as it is legally able to do so, all contracts to which it is a party and which relate to the operation, maintenance or use of any restaurant, motel or other lodging facility, truck and automobile service facility, food vending facility or any other service facility located along the West Virginia Turnpike, to be renewed on a competitive bid basis. All contracts relating to any facility or services entered into by the Parkways Authority with a private party with respect to any project constructed after the effective date of this legislation shall be let on a competitive bid basis only. If the Parkways Authority receives a proposal for the development of a project, except for a parkway project, such proposal shall be made available to the public in a convenient location in the county wherein the proposed facility may be located. The Parkways Authority shall publish a notice of the proposal by a Class I legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code. The publication area shall be the county in which the proposed facility would be located. Any citizen may communicate by writing to the Parkways Authority his or her opposition to or approval to such proposal within a period of time not less than forty-five days from the publication of the notice. No contract for the development of an economic development project or a tourism project may be entered into by the Parkways Authority until a public hearing is held in the vicinity of the location of the proposed economic development project or tourism project with at least twenty days’ notice of such hearing by a Class I publication pursuant to section two of said article. The Parkways Authority shall make written findings of fact prior to rendering a decision on any such proposed project. All studies, records, documents and other
materials which are considered by the Parkways Authority in making such findings shall be made available for public inspection at the time of the publication of the notice of public hearing and at a convenient location in the county where the proposed economic development project or tourism project may be located. The Parkways Authority shall promulgate rules in accordance with chapter twenty-nine-a of this code for the conduct of any hearing required by this section. Persons attending any such hearing shall be afforded a reasonable opportunity to speak and be heard on the proposed economic development project or tourism project.

§17-16A-13a. Public notice and meeting requirements.

(a) Notwithstanding any provision of the law to the contrary, on and after the effective date of the amendment and reenactment of this section in 2017, the Parkways Authority is authorized after prior public notice and meeting, as set forth in this section, to:

1. Fix initial rates, tolls or charges along any portion of a parkway project and fix fees for any single fee program implemented in accordance with section six of this article including, without limitation, fixing initial rates, tolls or charges that may be subject to adjustment or escalation from time to time, or approve any proposal or contract that would require the Parkways Authority to fix any initial rates, tolls or charges along any portion of a parkway project or any fees under any single fee program;

2. Increase any rates, tolls or charges along any portion of the parkway project, increase fees for any single fee program implemented in accordance with section six of this article, or approve any proposal or contract that would result in or require an increase in any rates or tolls along any portion of the parkway project or any fees under any single fee program: Provided, That the Parkways Authority may not increase any passenger vehicle rates, tolls or charges without establishing either a single fee program pursuant to
subdivision (16), subsection (a), section six of this article or a passenger motor vehicle unlimited use single fee EZ Pass transponder discount program pursuant to section twenty-nine of this article: \textit{Provided, however}, That the program shall extend at least through the period that any rates, tolls or charges are imposed: \textit{Provided further}, That the single annual fee proposed to be charged under either such program may not exceed:

\begin{enumerate}
\item[(A)] An amount of $25 per year: \textit{Provided}, That the Parkways Authority may adjust this amount every three years: \textit{Provided, however}, That an increase in such amount may not exceed five percent of the amount at each adjustment; and

\item[(B)] A usage fee for the EZ Pass transponder, radio frequency identifying tag or other device issued by the Parkways Authority to participate in such program, which fee shall not exceed the actual cost of issuing such device;

\item[(3)] Issue any parkway revenue bond pursuant to section ten of this article or any parkway revenue refunding bond pursuant to sections twenty-one and twenty-two of this article which would require the Parkways Authority to increase or adjust rates, tolls, fees under any single fee program, or charges whether at the time of issuance of the bonds or at any time during the term of any bonds;

\item[(4)] Approve any contract or project which would require or result in an increase in the rates, tolls or charges along any portion of the parkway project or fees under any single fee program implemented in accordance with section six of this article; or

\item[(5)] Take any other action which would require or result in an increase in the rates, tolls or charges along any portion of the parkway project or fees under any single fee program implemented in accordance with section six of this article.
(b) The Parkways Authority shall publish notice of any proposed contract, project or bond which would require the Parkways Authority to fix any initial toll rates or charges or fees or result in an increase of any toll rates or charges or fees, along with the associated initial rate or fee and rate or fee increase, by a Class II legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code, published and of general circulation in each county which borders the parkway project or proposed parkway project affected by the proposed contract, project or bond.

(c) Once notice has been provided in accordance with the provisions of this section, the Parkways Authority shall conduct at least one public meeting at a reasonable time and location in any county which borders the parkway project or proposed parkway project affected by the proposed contract, project or bond, to allow interested members of the public an opportunity to ask questions and give written comments during the meeting respecting the proposed contract, project or bond which would require the Parkways Authority to fix any initial toll rates or charges or fees or result in an increase of any toll rates or charges or fees. Any citizen may also communicate by writing to the Parkways Authority his or her opposition to or approval of such proposal, initial rate or toll or fee, rate or toll or fee increase or amended bond terms. The public notice and written public comment period shall be conducted not less than forty-five days from the publication of the notice and the affected public must be provided with at least twenty days’ notice of any scheduled public meeting.

(d) All studies, records, documents and other materials which were considered by the Parkways Authority before recommending the approval of any such project or recommending the adoption of any such initial rate or increase shall be made available for public inspection for a period of at least twenty days prior to the scheduled meeting at a convenient location in each county where a public meeting is held or online.
(e) Any final action taken by the Parkways Authority to approve or implement any proposed initial rate or fee, rate or fee increase, contract or project which would require or result in a proposed initial rate or toll or fee or a proposed increase of any rate or tolls along any portion of a parkway project or fee for any single fee program without first satisfying the public notice and meeting requirements of this section, shall be null and void.

(f) Nothing in this section shall be construed to permit or authorize the Parkways Authority to charge tolls or fees on any existing road without express legislative authorization for the charging of such tolls or fees: Provided, That an existing road does not include the West Virginia Turnpike, new lanes or new sections of an existing road, the replacement or construction of any bridge or tunnel, or related facilities.


(a) The Parkways Authority is hereby authorized to operate the currently existing toll collection facility located at the interchange of U. S. Route 19 (Corridor L) and to fix, revise, charge and collect tolls for the use of such toll collection facility in accordance with the provisions of section thirteen of this article. Any proposed increase of any rate or toll for use of the toll collection facility located at Corridor L shall be subject to the public notice and meeting requirements of section thirteen-a of this article. (1) The Parkways Authority shall maintain, advertise, implement and otherwise make generally available to all qualified members of the public, resident or nonresident, a system of commuter passes, in a form to be determined by the authority. Applications for these commuter passes are to be made available by the Parkways Authority to Division of Motor Vehicles offices in the state;

(2) The system of commuter passes implemented in accordance with the provisions of subdivision (1), subsection (a) of this section, shall be available only for use
when operating or traveling in a Class A motor vehicle as herein defined. Any person who knowingly or intentionally utilizes any commuter pass issued in accordance with this section while operating a vehicle other than a Class A motor vehicle, as herein defined, at the U. S. Route 19 (Corridor L) turnpike toll facility, or any other toll facility at or upon which such pass may later be usable, is guilty of a misdemeanor and, for every such offense, upon conviction thereof, shall be punished in accordance with the provisions of section seventeen, article sixteen-a of this chapter; and the Parkways Authority shall hereafter be authorized and empowered to cancel any such commuter pass or passes improperly used in accordance with this section;

(3) For the purpose of this section, a “Class A vehicle” shall be defined as a motor vehicle of passenger type and truck with a gross weight of ten thousand pounds or less and registered or eligible for registration as a Class A vehicle in accordance with section one, article ten, chapter seventeen-a of this code as the same is currently constituted; and

(4) Notwithstanding any other provisions of this code to the contrary, the Parkways Authority may not promulgate emergency rules in accordance with section fifteen, article three, chapter twenty-nine-a of this code to increase or decrease tolls, “single program” fees or the commuter pass fee established herein.

(b) Nothing in this section is to be construed to apply to, regulate or in any manner affect the operation of the three main line toll barriers and toll collection facilities currently located on the West Virginia Turnpike and operated by the Parkways Authority as Barrier A, Barrier B and Barrier C (I-64, I-77).


The Parkways Authority is hereby authorized to provide by resolution for the issuance of parkway revenue refunding bonds of the state for the purpose of refunding any bonds
then outstanding which shall have been issued or may be issued under the provisions of this article in connection with the construction of any parkway project, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds; and, if deemed advisable by the Parkways Authority, for the additional purpose of constructing improvements, extensions or enlargements of the project or projects in connection with which the bonds to be refunded shall have been issued: Provided, That this section shall not be construed as authorizing the issuance of parkway revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this article, or any predecessor thereof, in connection with the construction of the West Virginia Turnpike, which revenue refunding bonds may be issued only as authorized under section twenty-two of this article. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the Parkways Authority in respect of the same shall be governed by the provisions of this article insofar as the same may be applicable. No issuance of a refunding bond may extend the maturity date of such bond being refunded and may not exceed the outstanding principal of such bond being refunded. Any refunding bond shall be structured to provide for approximately level annual debt service savings each fiscal year through the final maturity or structured to approximate the level of debt service that would have been paid prior to the refunding, with a preponderance of the savings being deferred toward eliminating or reducing the most distant maturities. For purposes of this section, the outstanding principal is to be determined as of the date on which the revenue bond is refinanced.

The Parkways Authority is hereby authorized to provide by resolution for the issuance of parkway revenue refunding bonds of the state for the purpose of refunding any bonds which shall have been issued under this article, or any predecessor thereof, in connection with the construction of the West Virginia Turnpike, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, to the extent permissible under federal law and if deemed advisable by the Parkways Authority, for repaying to the state all or any part of the state funds used to upgrade the West Virginia Turnpike to federal interstate standards: Provided, That none of the proceeds of the issuance of parkway revenue refunding bonds issued under this section shall be used to pay all or any part of the cost of any economic development project or tourism project. Except as otherwise specifically provided in this section, the issuance of parkway revenue refunding bonds pursuant to this section, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the parkways authority in respect of the same, shall be governed by the provisions of this article insofar as the same may be applicable.

The authority to issue parkway revenue refunding bonds under the provisions of this section and section twenty-one of this article does not extend to the refunding of any parkway revenue refunding bonds outstanding on the effective date of the amendment and reenactment of such sections in 2017.

No issuance of a refunding bond may extend the maturity date of such bond being refunded and may not exceed the outstanding principal of such bond being refunded. Any refunding bond six shall be structured to provide for approximately level annual debt service savings each fiscal year through the final maturity or structured to approximate the level of debt service that would have been paid prior to the refunding, with a preponderance of the
Ch. 5] ROADS AND HIGHWAYS 2419

savings being deferred toward eliminating or reducing the
most distant maturities. For purposes of this section, the
outstanding principal is to be determined as of the date on
which the revenue bond is refinanced.

§17-16A-29. Discount program for purchasers of West
Virginia EZ Pass transponders.

(a) The Parkways Authority is hereby authorized to
create a discount program for purchasers of West Virginia
EZ Pass transponders: Provided, That prior to the fixation
of any initial rates, tolls or charges or any increase in any
rates, tolls or charges along any portion of the parkway
project, the Parkways Authority may create a discount
program for purchasers of West Virginia EZ Pass
transponders. Any discount program created pursuant to this
section shall provide discounts for each class of motor
vehicles: Provided, however, That any single fee program
implemented by the authority pursuant to subdivision (16),
subsection (a), section six of this article shall apply only to
passenger motor vehicles.

(b) The authority shall provide public notice and hold a
public meeting on any proposed discount program as
required in section thirteen-a of this article prior to
implementation of such program.

(c) For purposes of this section, a “West Virginia EZ
Pass transponder” means a device issued by the Parkways
Authority which allows the purchaser to attach the device to
his or her motor vehicle and travel through a Parkways
Authority toll facility and be billed for such travel by the
authority.

§17-16A-30. Coordination with county commission in counties
where a parkway project may be located.

Once a parkway project for a new toll road is identified
by the authority, the Governor shall appoint, with the advice
and consent of the Senate, two persons from each county
where the parkway project for the new toll road is located
to serve on a local committee to provide recommendations and suggestions to the authority on all matters regarding the local identified project. The local committee shall also report any of its findings to the county commission or county commissions of the counties in which the parkway project for the new toll road is located. Prior to any final approval of a parkway project for a new toll road, the county commissions of the counties in which the parkway project road is located shall by resolution approve the parkway project: Provided, That a resolution approving the parkway project for a new toll road is only required from a simple majority of the county commissions of the counties in which the parkway project for a new toll road is located.

ARTICLE 16D. ELECTRONIC TOLL COLLECTION.


Notwithstanding the provisions of article sixteen-a and section five-b, article seventeen-a of this chapter and section seven-a, article six, chapter seventeen-c of this code to the contrary, the collection and enforcement of tolls for the use of roads, highways and bridges may be accomplished by electronic toll collection as provided in this article and in rules promulgated by authority of this article.

CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE AND ANTITHEFT PROVISIONS.

ARTICLE 2. DIVISION OF MOTOR VEHICLES.

§17A-2-25. Agreements with West Virginia Parkways Authority.

The Division is hereby authorized, directed and empowered to enter into all necessary agreements with the West Virginia Parkways Authority to collect road user fees imposed by the authority under subdivision (16), subsection (a), section six, article sixteen-a, chapter seventeen of this code, or any other applicable section of its enabling
legislation, and to deposit the fees collected by the Division into the West Virginia Parkways Authority Single Fee Program Fund established under section eleven-a, article sixteen-a, chapter seventeen of this code.

ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-7. Grounds for refusing registration or certificate of title.

The division shall refuse registration or issuance of a certificate of title or any transfer of registration upon any of the following grounds:

1. That the application contains any false or fraudulent statement or that the applicant has failed to furnish required information or reasonable additional information requested by the division or that the applicant is not entitled to the issuance of a certificate of title or registration of the vehicle under this chapter;

2. That the applicant fails to present a statement of insurance or proof of other security as required pursuant to the provisions of section three of this article;

3. That the vehicle is mechanically unfit or unsafe to be operated or moved upon the highways;

4. That the division has reasonable grounds to believe that the vehicle is a stolen or embezzled vehicle or that the granting of registration or the issuance of certificate of title would constitute a fraud against the rightful owner or other person having a valid lien upon such vehicle;

5. That the registration of the vehicle stands suspended or revoked for any reason as provided in the motor vehicle laws of this state;

6. That the required fee has not been paid;
(7) That the vehicle is operated by a commercial motor carrier who has failed to provide a federal motor carrier identification number (USDOT number) or whose authority to operate in interstate commerce has been denied or suspended by the federal Motor Carrier Safety Administration; or

(8) That any road user fee due under a single fee program imposed by the West Virginia Parkways Authority has not been paid.

ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.

§17A-10-17. Fee for West Virginia Parkways Authority Single Fee Program.

In addition to each fee provided in this article, an additional fee for any single fee program that may be implemented by the West Virginia Parkways Authority pursuant to section six, article sixteen-a, chapter seventeen of this code shall be payable upon the issuance of each certificate of registration and renewal thereof issued pursuant to article three of this chapter. The Division shall collect and deposit all the additional fees into the West Virginia Parkways Authority Single Fee Program Fund created in section eleven-a, article sixteen-a, chapter seventeen of this code. The additional fee provided herein may be imposed for each application for such certificate and renewal thereof made on or after July 1, 2017.
AN ACT to amend and reenact §11-14C-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-3c and §11-15-18b of said code; to amend and reenact §17A-2-13 of said code; to amend and reenact §17A-3-4 of said code; to amend and reenact §17A-4-1 of said code; to amend and reenact §17A-4-10 of said code as contained in Chapter 152, Acts of the Legislature, Regular Session, 2017; to amend and reenact §17A-4A-10 of said code; to amend and reenact §17A-7-2 of said code; to amend and reenact §17A-10-3, §17A-10-10 and §17A-10-11 of said code; to amend said code by adding thereto a new section, designated §17A-10-3c; to amend and reenact §17B-2-1, §17B-2-3a, §17B-2-5, §17B-2-6, §17B-2-8 and §17B-2-11 of said code; to amend and reenact §17C-5A-2a of said code; and to amend and reenact §17D-2-2 of said code, all relating generally to increasing the funding for the State Road Fund; increasing the minimum average wholesale price of motor fuels and minimum tax for purposes of the five percent variable component of motor fuel excise tax as of specified date; increasing the rate of consumers sales and service tax on sales of motor vehicles as of a specified date; deleting superfluous language relating to floorstocks; increasing Division of Motor Vehicles administrative fees, including increasing fees for various documents, records, registrations, certificates, titles, liens, releases, transfers, cards, stickers, decals, licenses and plates; requiring payment of certain fee for each attempt at the written and road skills test; allowing the Division of Motor Vehicles
to adjust fees every five years on September 1 based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index; limiting increase in fees to ten percent; imposing annual registration fee for certain alternative fuel vehicles; correcting cross-references and agency title; and specifying effective dates.

Be it enacted by the Legislature of West Virginia:

That §11-14C-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11-15-3c and §11-15-18b of said code be amended and reenacted; that §17A-2-13 of said code be amended and reenacted; that §17A-3-4 of said code be amended and reenacted; that §17A-4-1 of said code be amended and reenacted; that §17A-4-10 of said code as contained in Chapter 152, Acts of the Legislature, Regular Session, 2017, be amended and reenacted; that §17A-4A-10 of said code be amended and reenacted; that §17A-7-2 of said code be amended and reenacted; that §17A-10-3, §17A-10-10 and §17A-10-11 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §17A-10-3c; that §17B-2-1, §17B-2-3a, §17B-2-5, §17B-2-6, §17B-2-8 and §17B-2-11 of said code be amended and reenacted; that §17C-5A-2a of said code be amended and reenacted; and that §17D-2-2 of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 14C. MOTOR FUEL EXCISE TAX.

§11-14C-5. Taxes levied; rate.

1 (a) There is hereby levied on all motor fuel an excise tax composed of a flat rate equal to $.205 per invoiced gallon and, on alternative fuel, on each gallon equivalent, plus a variable component comprised of:

5 (1) On motor fuel other than alternative fuel, either the tax imposed by section eighteen-b, article fifteen of this chapter or the tax imposed under section thirteen-a, article fifteen-a of this chapter, as applicable. The variable
component shall be equal to five percent of the average wholesale price of the motor fuel: Provided, That on and after January 1, 2010, the average wholesale price shall be no less than $2.34 per invoiced gallon and is computed as hereinafter prescribed in this section: Provided, however, That on and after July 1, 2017, the average wholesale price of motor fuel may not be determined to be less than $3.04 per invoiced gallon for all gallons of motor fuel sold during the reporting period notwithstanding any provision of this code to the contrary and on and after July 1, 2017, the tax per gallon may not be less than 15.2 cents per gallon of motor fuel; and

(2) On alternative fuel, either the tax imposed by section eighteen-b, article fifteen of this chapter or the tax imposed under section thirteen-a, article fifteen-a of this chapter, as applicable. The variable component of the tax on alternative fuel shall be equal to five percent of the average wholesale price of the alternative fuel.

(b) Determination of average wholesale price. —

(1) To simplify determining the average wholesale price of all motor fuel, the Tax Commissioner shall, effective with the period beginning the first day of the month of the effective date of the tax and each January 1 thereafter, determine the average wholesale price of motor fuel for each annual period on the basis of sales data gathered for the preceding period of July 1 through October 31. Notification of the average wholesale price of motor fuel shall be given by the Tax Commissioner at least thirty days in advance of each January 1 by filing notice of the average wholesale price in the State Register and by other means as the Tax Commissioner considers reasonable.

(2) The “average wholesale price” means the single, statewide average per gallon wholesale price, rounded to the third decimal (thousandth of a cent), exclusive of state and federal excise taxes on each gallon of motor fuel or on each gallon equivalent of alternative fuel as determined by the
Tax Commissioner from information furnished by suppliers, importers and distributors of motor fuel and alternative-fuel providers, alternative-fuel bulk end users and retailers of alternative fuel in this state, or other information regarding wholesale selling prices as the Tax Commissioner may gather or a combination of information. On and after January 1, 2010, in no event shall the average wholesale price be determined to be less than $2.34 per gallon of motor fuel: Provided, That on and after July 1, 2017, the average wholesale price may not be determined to be less than $3.04 per gallon of motor fuel. On and after January 1, 2011, the average wholesale price shall not vary by more than ten percent from the average wholesale price of motor fuel as determined by the Tax Commissioner for the previous calendar year: Provided, however, That in no case shall the average wholesale price of motor fuel be determined to be less than $3.04 per invoiced gallon. Any limitation on the average wholesale price of motor fuel contained in this subsection shall not be applicable to alternative fuel.

(3) All actions of the Tax Commissioner in acquiring data necessary to establish and determine the average wholesale price of motor fuel, in providing notification of his or her determination prior to the effective date of a change in rate, and in establishing and determining the average wholesale price of motor fuel may be made by the Tax Commissioner without compliance with the provisions of article three, chapter twenty-nine-a of this code.

(4) In an administrative or court proceeding brought to challenge the average wholesale price of motor fuel as determined by the Tax Commissioner, his or her determination is presumed to be correct and shall not be set aside unless it is clearly erroneous.

(c) Every licensee who, on the effective date of any rate change, has in inventory any motor fuel upon which the tax or any portion thereof has been previously paid shall take a physical inventory and file a report thereof with the
commissioner, in the format as required by the commissioner, within thirty days after the effective date of the rate change, and shall pay to the commissioner at the time of filing the report any additional tax due under the increased rate.

(d) The Tax Commissioner shall determine by January 1, 2014, the gasoline gallon equivalent for each alternative fuel by filing a notice of the gasoline gallon equivalent in the State Register and by other means that the Tax Commissioner considers reasonable. The Tax Commissioner may redetermine the gasoline gallon equivalent for each alternative fuel by filing a notice of the gasoline gallon equivalent in the State Register at least thirty days in advance of January 1 for the next succeeding tax year. For purposes of this notice, the Tax Commissioner may adopt or incorporate by reference provisions of the National Institute of Standards and Technology, United States Department of Commerce, the Internal Revenue Code, United States Treasury Regulations, the Internal Revenue Service publications or guidelines or other publications or guidelines which may be useful in determining, setting or describing the gasoline gallon equivalent for each alternative fuel used as motor fuel.

(e) Effective date. — The amendments to this section enacted during the first extraordinary session of 2017 shall take effect on July 1, 2017.

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-3c. Imposition of consumers sales tax on motor vehicle sales; rate of tax; use of motor vehicle purchased out of state; definition of sale; definition of motor vehicle; exemptions; collection of tax by Division of Motor Vehicles; dedication of tax to highways; legislative and emergency rules.

(a) Notwithstanding any provision of this article or article fifteen-a of this chapter to the contrary, beginning on
July 1, 2008, all motor vehicle sales to West Virginia residents shall be subject to the consumers sales tax imposed by this article.

(b) *Rate of tax on motor vehicles.* — Notwithstanding any provision of this article or article fifteen-a of this chapter to the contrary, the rate of tax on the sale and use of a motor vehicle shall be five percent of its sale price, as defined in section two, article fifteen-b of this chapter: Provided, That so much of the sale price or consideration as is represented by the exchange of other vehicles on which the tax imposed by this section or section four, article three, chapter seventeen-a of this code has been paid by the purchaser shall be deducted from the total actual sale price paid for the motor vehicle, whether the motor vehicle be new or used. However, beginning July 1, 2017, the rate of tax imposed by this section shall increase to six percent of the sales price for purchases of motor vehicles made on and after that date.

(c) *Motor vehicles purchased out of state.* — Notwithstanding this article or article fifteen-a to the contrary, the tax imposed by this section shall apply to all motor vehicles, used as defined by section one, article fifteen-a of this chapter, within this state, regardless of whether the vehicle was purchased in a state other than West Virginia.

(d) *Definition of sale.* — Notwithstanding any provision of this article or article fifteen-a of this chapter to the contrary, for purposes of this section, “sale”, “sales” or “selling” means any transfer or lease of the possession or ownership of a motor vehicle for consideration, including isolated transactions between individuals not being made in the ordinary course of repeated and successive business and also including casual and occasional sales between individuals not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions.
(e) Definition of motor vehicle. — For purposes of this section, “motor vehicle” means every propellable device in or upon which any person or property is or may be transported or drawn upon a highway including, but not limited to: Automobiles; buses; motor homes; motorcycles; motorboats; all-terrain vehicles; snowmobiles; low-speed vehicles; trucks, truck tractors and road tractors having a weight of less than fifty-five thousand pounds; trailers, semitrailers, full trailers, pole trailers and converter gear having a gross weight of less than two thousand pounds; and motorboat trailers, fold-down camping trailers, traveling trailers, house trailers and motor homes; except that the term “motor vehicle” does not include: Modular homes, manufactured homes, mobile homes, similar nonmotive propelled vehicles susceptible of being moved upon the highways but primarily designed for habitation and occupancy; devices operated regularly for the transportation of persons for compensation under a certificate of convenience and necessity or contract carrier permit issued by the Public Service Commission; mobile equipment as defined in section one, article one, chapter seventeen-a of this code; special mobile equipment as defined in section one, article one, chapter seventeen-a of this code; trucks, truck tractors and road tractors having a gross weight of fifty-five thousand pounds or more; trailers, semitrailers, full trailers, pole trailers and converter gear having weight of two thousand pounds or greater: Provided, That notwithstanding the provisions of section nine, article fifteen, chapter eleven of this code, the exemption from tax under this section for mobile equipment as defined in section one, article one, chapter seventeen-a of this code; special mobile equipment defined in section one, article one, chapter seventeen-a of this code; Class B trucks, truck tractors and road tractors registered at a gross weight of fifty-five thousand pounds or more; and Class C trailers, semitrailers, full trailers, pole trailers and converter gear having weight of two thousand pounds or greater does not subject the sale or purchase of the vehicle to the consumers sales and service tax imposed by section three of this article.
(f) **Exemptions.** — Notwithstanding any other provision of this code to the contrary, the tax imposed by this section shall not be subject to any exemption in this code other than the following:

1. The tax imposed by this section does not apply to any passenger vehicle offered for rent in the normal course of business by a daily passenger rental car business as licensed under the provisions of article six-d, chapter seventeen-a of this code. For purposes of this section, a daily passenger car means a motor vehicle having a gross weight of eight thousand pounds or less and is registered in this state or any other state. In lieu of the tax imposed by this section, there is hereby imposed a tax of not less than $1 nor more than $1.50 for each day or part of the rental period. The Commissioner of the Division of Motor Vehicles shall propose an emergency rule in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish this tax.

2. The tax imposed by this section does not apply where the motor vehicle has been acquired by a corporation, partnership or limited liability company from another corporation, partnership or limited liability company that is a member of the same controlled group and the entity transferring the motor vehicle has previously paid the tax on that motor vehicle imposed by this section. For the purposes of this section, control means ownership, directly or indirectly, of stock or equity interests possessing fifty percent or more of the total combined voting power of all classes of the stock of a corporation or equity interests of a partnership or limited liability company entitled to vote or ownership, directly or indirectly, of stock or equity interests possessing fifty percent or more of the value of the corporation, partnership or limited liability company.

3. The tax imposed by this section does not apply where motor vehicle has been acquired by a senior citizen service organization which is exempt from the payment of income taxes under the United States Internal Revenue
Code, Title 26 U. S. C. §501(c)(3) and which is recognized to be a bona fide senior citizen service organization by the Bureau of Senior Services existing under the provisions of article five-p, chapter sixteen of this code.

(4) The tax imposed by this section does not apply to any active duty military personnel stationed outside of West Virginia who acquires a motor vehicle by sale within nine months from the date the person returns to this state.

(5) The tax imposed by this section does not apply to motor vehicles acquired by registered dealers of this state for resale only.

(6) The tax imposed by this section does not apply to motor vehicles acquired by this state or any political subdivision thereof or by any volunteer fire department or duly chartered rescue or ambulance squad organized and incorporated under the laws of this state as a nonprofit corporation for protection of life or property.

(7) The tax imposed by this section does not apply to motor vehicles acquired by an urban mass transit authority, as defined in article twenty-seven, chapter eight of this code, or a nonprofit entity exempt from federal and state income tax under the Internal Revenue Code for the purpose of providing mass transportation to the public at large or designed for the transportation of persons and being operated for the transportation of persons in the public interest.

(8) The tax imposed by this section does not apply to the registration of a vehicle owned and titled in the name of a resident of this state if the applicant:

(A) Was not a resident of this state at the time the applicant purchased or otherwise acquired ownership of the vehicle;
(B) Presents evidence as the Commissioner of the Division of Motor Vehicles may require of having titled the vehicle in the applicant’s previous state of residence;

(C) Has relocated to this state and can present such evidence as the Commissioner of the Division of Motor Vehicles may require to show bona fide residency in this state; and

(D) Makes application to the Division of Motor Vehicles for a title and registration and pays all other fees required by chapter seventeen-a of this code within thirty days of establishing residency in this state as prescribed in subsection (a), section one-a of this article.

(9) On and after January 1, 2009, the tax imposed by this section does not apply to Class B trucks, truck tractors and road tractors registered at a gross weight of fifty-five thousand pounds or more or to Class C trailers, semitrailers, full trailers, pole trailers and converter gear having a weight of two thousand pounds or greater. If an owner of a vehicle has previously titled the vehicle at a declared gross weight of fifty-five thousand pounds or more and the title was issued without the payment of the tax imposed by this section, then before the owner may obtain registration for the vehicle at a gross weight less than fifty-five thousand pounds, the owner shall surrender to the commissioner the exempted registration, the exempted certificate of title and pay the tax imposed by this section based upon the current market value of the vehicle.

(10) The tax imposed by this section does not apply to vehicles leased by residents of West Virginia. On or after January 1, 2009, a tax is imposed upon the monthly payments for the lease of any motor vehicle leased under a written contract of lease by a resident of West Virginia for a contractually specified continuous period of more than thirty days, which tax is equal to five percent of the amount of the monthly payment, applied to each payment, and continuing for the entire term of the initial lease period. The
Chapter 6] TAXATION 2433

182 tax shall be remitted to the Division of Motor Vehicles on a
183 monthly basis by the lessor of the vehicle. Leases of thirty
184 days or less are taxable under the provisions of this article
185 and article fifteen-a of this chapter without reference to this
186 section.

187 (g) Division of Motor Vehicles to collect. — Notwithstanding any provision of this article, article fifteen-
188 a and article ten of this chapter to the contrary, the Division
189 of Motor Vehicles shall collect the tax imposed by this
190 section: Provided, That such tax is imposed upon the
191 monthly payments for the lease of any motor vehicle leased
192 by a resident of West Virginia, which tax is equal to five
193 percent of the amount of the monthly payment, applied to
194 each payment, and continuing for the entire term of the
195 initial lease period. The tax shall be remitted to the Division
196 of Motor Vehicles on a monthly basis by the lessor of the
197 vehicle.

199 (h) Dedication of tax to highways. — Notwithstanding any provision of this article or article fifteen-a of this
200 chapter to the contrary, all taxes collected pursuant to this
201 section, after deducting the amount of any refunds lawfully
202 paid, shall be deposited in the State Road Fund in the State
203 Treasury and expended by the Commissioner of Highways
204 for design, maintenance and construction of roads in the
205 state highway system.

207 (i) Legislative rules; emergency rules. — Notwithstanding any provision of this article, article fifteen-
209 a and article ten of this chapter to the contrary, the
210 Commissioner of the Division of Motor Vehicles shall
211 promulgate legislative rules explaining and implementing
212 this section, which rules shall be promulgated in accordance
213 with the provisions of article three, chapter twenty-nine-a of
214 this code and should include a minimum taxable value and
215 set forth instances when a vehicle is to be taxed at fair
216 market value rather than its purchase price. The authority to
217 promulgate rules includes authority to amend or repeal
218 those rules. If proposed legislative rules for this section are
filed in the State Register before June 15, 2008, those rules
may be promulgated as emergency legislative rules as
provided in article three, chapter twenty-nine-a of this code.

(j) Notwithstanding any other provision of this code,
effective January 1, 2009, no municipal sales or use tax or
local sales or use tax or special downtown redevelopment
district excise tax or special district excise tax shall be
imposed under article twenty-two, chapter seven of this
code or article thirteen, chapter eight of this code or article
thirteen-b of said chapter or article thirty-eight of said
chapter or any other provision of this code, except this
section, on sales of motor vehicles as defined in this article
or on any tangible personal property excepted or exempted
from tax under this section. Nothing in this subsection shall
be construed to prevent the application of the municipal
business and occupation tax on motor vehicle retailers and
leasing companies.


(a) General. — All sales of motor fuel and alternative
fuel subject to the flat rate of the tax imposed by section
five, article fourteen-c of this chapter, are subject to the tax
imposed by this article and comprises the variable
component of the tax imposed by section five, article
fourteen-c of this chapter and is collected and remitted at
the time the tax imposed by said section is remitted. Sales
of motor fuel and alternative fuel upon which the tax
imposed by this article has been paid is not again taxed
under the provisions of this article. This section means that
all gallons of motor fuel and equivalent gallons of
alternative fuel sold and delivered or delivered in this state
are taxed one time.

(b) Measure of tax. — The measure of tax imposed by
this article is as follows:

(1) On sales of motor fuel, the average wholesale price
as defined and determined in section five, article fourteen-c
of this chapter. For purposes of maintaining revenue for highways, and recognizing that the tax imposed by this article is generally imposed on gross proceeds from sales to ultimate consumers, whereas the tax on motor fuel herein is imposed on the average wholesale price of the motor fuel; in no case, for the purposes of taxation under this article, may the average wholesale price be determined to be less than 97 cents per gallon of motor fuel for all gallons of motor fuel sold during the reporting period, notwithstanding any provision of this article to the contrary. On and after January 1, 2010, for the purpose of taxation under this article, in no case may the average wholesale price be determined to be less than $2.34 per gallon of motor fuel for all gallons of motor fuel sold during the reporting period notwithstanding any provision of this article to the contrary: Provided, That on and after July 1, 2017, in no case may the average wholesale price be determined to be less than $3.04 per gallon of motor fuel for all gallons of motor fuel sold during the reporting period notwithstanding any provision of this article to the contrary and on and after July 1, 2017, the tax per gallon may not be less than 15.2 cents per gallon of motor fuel. Any limitation on the average wholesale price of motor fuel contained in this subsection shall not be applicable to alternative fuel.

(2) On sales of alternative fuel, the average wholesale price as defined and determined in section five, article fourteen-c of this chapter.

(c) Definitions. — For purposes of this article, the terms “gasoline” and “special fuel” and “alternative fuel” are defined as provided in section two, article fourteen-c of this chapter. Other terms used in this section have the same meaning as when used in a similar context in said article.

(d) Tax return and tax due. —

(1) The tax imposed by this article on sales of motor fuel shall be paid by each taxpayer on or before the last day of the calendar month by check, bank draft, certified check or
money order payable to the Tax Commissioner for the amount of tax due for the preceding month notwithstanding any provision of this article to the contrary. The commissioner may require all or certain taxpayers to file tax returns and payments electronically. The return required by the commissioner shall accompany the payment of tax. If no tax is due, the return required by the commissioner shall be completed and filed on or before the last day of the month.

(2) The tax due under this article comprising the variable component of the tax due under article fourteen-c of this chapter on alternative fuel, is due and shall be collected and remitted at the time the tax imposed by section five, article fourteen-c of this chapter is due, collected and remitted.

(e) Compliance. — To facilitate ease of administration and compliance by taxpayers, the Tax Commissioner shall require persons liable for the tax imposed by this article on sales of motor fuel to file a combined return and make a combined payment of the tax due under this article on sales of motor fuel and the tax due under article fourteen-c of this chapter on motor fuel. In order to encourage use of a combined return each month and the making of a single payment each month for both taxes, the due date of the return and tax due under article fourteen-c of this chapter is the last day of each month notwithstanding any provision in said article to the contrary. The Tax Commissioner may prescribe reporting and payment requirements for tax due under this article on alternative fuel which accommodate the due dates and requirements prescribed in this article and article fourteen-c of this chapter, either under a separate return and payment or a combined return and payment, within the discretion of the Tax Commissioner.

(f) Dedication of tax. — All tax collected under the provisions of this section, after deducting the amount of refunds lawfully paid, shall be deposited in the road fund in the State Treasurer’s office and used only for the purpose of construction, reconstruction, maintenance and repair of
highways and payment of principal and interest on state
bonds issued for highway purposes. Notwithstanding any
provision to the contrary, tax collected on the sale of
aviation fuel after deducting the amount of refunds lawfully
paid shall be deposited in the State Treasurer’s office and
transferred to the state Aeronautical Commission to be used
for the purpose of matching federal funds available for the
reconstruction, maintenance and repair of public airports
and airport runways.

(g) Construction. — This section does not tax a sale of
motor fuel which this state is prohibited from taxing under
the Constitution of this state or the Constitution or laws of
the United States.

(h) Effective date. — The provisions of this section take
effect on January 1, 2004. The provisions of this section
enacted during the 2007 legislative session take effect on
January 1, 2008. The provisions of this section enacted
during the 2013 regular legislative session take effect on
January 1, 2014. The amendments of this section enacted
during the first extraordinary session of 2017 take effect on
July 1, 2017.

CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE AND ANTI-
THEFT PROVISIONS.

ARTICLE 2. DIVISION OF MOTOR VEHICLES.

§17A-2-13. Authority to administer oaths and certify copies of
records; information as to registration.

(a) Officers and employees of the division designated
by the commissioner are, for the purpose of administering
the motor vehicle laws, authorized to administer oaths and
acknowledge signatures, and shall do so without fee.

(b) The commissioner and such officers of the division
as he or she may designate are hereby authorized to prepare
under the seal of the division and deliver upon request in
conformance with article two-a of this chapter a certified copy of any record of the division, charging a fee of $1.50 for each document so authenticated, and every such certified copy is admissible in any proceeding in any court in like manner as the original thereof. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(c) Subject to the provisions of article two-a of this chapter, the commissioner and such officers of the division as he or she may designate may furnish the requested information to any person making a written request for information regarding the registration of any vehicle at a fee of $1.50 for each registration about which information is furnished. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(d) The provisions of this section enacted in 2017 take effect on July 1, 2017.

ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-4. Application for certificate of title; fees; abolishing privilege tax; prohibition of issuance of certificate of title without compliance with consumers sales and service tax provisions; exceptions.

(a) Certificates of registration of any vehicle or registration plates for the vehicle, whether original issues or duplicates, may not be issued or furnished by the Division of Motor Vehicles or any other officer or agent charged with
the duty, unless the applicant already has received, or at the
same time makes application for and is granted, an official
certificate of title of the vehicle in either an electronic or
paper format. The application shall be upon a blank form to
be furnished by the Division of Motor Vehicles and shall
contain a full description of the vehicle, which description
shall contain a manufacturer’s serial or identification
number or other number as determined by the commissioner
and any distinguishing marks, together with a statement of
the applicant’s title and of any liens or encumbrances upon
the vehicle, the names and addresses of the holders of the
liens and any other information as the Division of Motor
Vehicles may require. The application shall be signed and
sworn to by the applicant. A duly certified copy of the
division’s electronic record of a certificate of title is
admissible in any civil, criminal or administrative
proceeding in this state as evidence of ownership.

(b) A tax is imposed upon the privilege of effecting the
certification of title of each vehicle in the amount equal to
five percent of the value of the motor vehicle at the time of
the certification, to be assessed as follows:

(1) If the vehicle is new, the actual purchase price or
consideration to the purchaser of the vehicle is the value of
the vehicle. If the vehicle is a used or secondhand vehicle,
the present market value at time of transfer or purchase is
the value of the vehicle for the purposes of this section:
Provided, That so much of the purchase price or
consideration as is represented by the exchange of other
vehicles on which the tax imposed by this section has been
paid by the purchaser shall be deducted from the total actual
price or consideration paid for the vehicle, whether the
vehicle be new or secondhand. If the vehicle is acquired
through gift or by any manner whatsoever, unless
specifically exempted in this section, the present market
value of the vehicle at the time of the gift or transfer is the
value of the vehicle for the purposes of this section.
(2) No certificate of title for any vehicle may be issued to any applicant unless the applicant has paid to the Division of Motor Vehicles the tax imposed by this section which is five percent of the true and actual value of the vehicle whether the vehicle is acquired through purchase, by gift or by any other manner whatsoever, except gifts between husband and wife or between parents and children: Provided, That the husband or wife, or the parents or children, previously have paid the tax on the vehicles transferred to the State of West Virginia.

(3) The Division of Motor Vehicles may issue a certificate of registration and title to an applicant if the applicant provides sufficient proof to the Division of Motor Vehicles that the applicant has paid the taxes and fees required by this section to a motor vehicle dealership that has gone out of business or has filed bankruptcy proceedings in the United States bankruptcy court and the taxes and fees so required to be paid by the applicant have not been sent to the division by the motor vehicle dealership or have been impounded due to the bankruptcy proceedings: Provided, That the applicant makes an affidavit of the same and assigns all rights to claims for money the applicant may have against the motor vehicle dealership to the Division of Motor Vehicles.

(4) The Division of Motor Vehicles shall issue a certificate of registration and title to an applicant without payment of the tax imposed by this section if the applicant is a corporation, partnership or limited liability company transferring the vehicle to another corporation, partnership or limited liability company when the entities involved in the transfer are members of the same controlled group and the transferring entity has previously paid the tax on the vehicle transferred. For the purposes of this section, control means ownership, directly or indirectly, of stock or equity interests possessing fifty percent or more of the total combined voting power of all classes of the stock of a corporation or equity interests of a partnership or limited
liability company entitled to vote or ownership, directly or indirectly, of stock or equity interests possessing fifty percent or more of the value of the corporation, partnership or limited liability company.

(5) The tax imposed by this section does not apply to vehicles to be registered as Class H vehicles or Class M vehicles, as defined in section one, article ten of this chapter, which are used or to be used in interstate commerce. Nor does the tax imposed by this section apply to the titling of Class B vehicles registered at a gross weight of fifty-five thousand pounds or more, or to the titling of Class C semitrailers, full trailers, pole trailers and converter gear: Provided, That if an owner of a vehicle has previously titled the vehicle at a declared gross weight of fifty-five thousand pounds or more and the title was issued without the payment of the tax imposed by this section, then before the owner may obtain registration for the vehicle at a gross weight less than fifty-five thousand pounds, the owner shall surrender to the commissioner the exempted registration, the exempted certificate of title and pay the tax imposed by this section based upon the current market value of the vehicle: Provided, however, That notwithstanding the provisions of section nine, article fifteen, chapter eleven of this code, the exemption from tax under this section for Class B vehicles in excess of fifty-five thousand pounds and Class C semitrailers, full trailers, pole trailers and converter gear does not subject the sale or purchase of the vehicles to the consumers sales and service tax.

(6) The tax imposed by this section does not apply to titling of vehicles leased by residents of West Virginia. A tax is imposed upon the monthly payments for the lease of any motor vehicle leased by a resident of West Virginia, which tax is equal to five percent of the amount of the monthly payment, applied to each payment, and continuing for the entire term of the initial lease period. The tax shall be remitted to the Division of Motor Vehicles on a monthly basis by the lessor of the vehicle.
(7) The tax imposed by this section does not apply to titling of vehicles by a registered dealer of this state for resale only, nor does the tax imposed by this section apply to titling of vehicles by this state or any political subdivision thereof, or by any volunteer fire department or duly chartered rescue or ambulance squad organized and incorporated under the laws of this state as a nonprofit corporation for protection of life or property. The total amount of revenue collected by reason of this tax shall be paid into the State Road Fund and expended by the Commissioner of Highways for matching federal funds allocated for West Virginia. In addition to the tax, there is a charge of $10 for each original certificate of title or duplicate certificate of title so issued: Provided, That this state or any political subdivision of this state or any volunteer fire department or duly chartered rescue squad is exempt from payment of the charge. The Division of Motor Vehicles may adjust the fee for each original certificate or duplicate certificate of title every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in the fee may not exceed ten percent of the total fee amount in a single year.

(8) The certificate is good for the life of the vehicle, so long as the vehicle is owned or held by the original holder of the certificate and need not be renewed annually, or any other time, except as provided in this section.

(9) If, by will or direct inheritance, a person becomes the owner of a motor vehicle and the tax imposed by this section previously has been paid to the Division of Motor Vehicles on that vehicle, he or she is not required to pay the tax.

(10) A person who has paid the tax imposed by this section is not required to pay the tax a second time for the same motor vehicle, but is required to pay a charge of $10 for the certificate of retitle of that motor vehicle, except that the tax shall be paid by the person when the title to the
vehicle has been transferred either in this or another state from the person to another person and transferred back to the person. The Division of Motor Vehicles may adjust the fee for each original certificate of title every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(11) The tax imposed by this section does not apply to any passenger vehicle offered for rent in the normal course of business by a daily passenger rental car business as licensed under the provisions of article six-d of this chapter. For purposes of this section, a daily passenger car means a Class A motor vehicle having a gross weight of eight thousand pounds or less and is registered in this state or any other state. In lieu of the tax imposed by this section, there is hereby imposed a tax of not less than $1 nor more than $1.50 for each day or part of the rental period. The commissioner shall propose an emergency rule in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish this tax.

(12) The tax imposed by this section does not apply to the titling of any vehicle purchased by a senior citizen service organization which is exempt from the payment of income taxes under the United States Internal Revenue Code, Title 26 U. S. C. §501(c)(3) and which is recognized to be a bona fide senior citizen service organization by the Bureau of Senior Services existing under the provisions of article five-p, chapter sixteen of this code.

(13) The tax imposed by this section does not apply to the titling of any vehicle operated by an urban mass transit authority as defined in article twenty-seven, chapter eight of this code or a nonprofit entity exempt from federal and state income tax under the Internal Revenue Code and whose purpose is to provide mass transportation to the public at large designed for the transportation of persons and being
operated for the transportation of persons in the public interest.

(14) The tax imposed by this section does not apply to the transfer of a title to a vehicle owned and titled in the name of a resident of this state if the applicant:

(A) Was not a resident of this state at the time the applicant purchased or otherwise acquired ownership of the vehicle;

(B) Presents evidence as the commissioner may require of having titled the vehicle in the applicant’s previous state of residence;

(C) Has relocated to this state and can present such evidence as the commissioner may require to show bona-fide residency in this state;

(D) Presents an affidavit, completed by the assessor of the applicant’s county of residence, establishing that the vehicle has been properly reported and is on record in the office of the assessor as personal property; and

(E) Makes application to the division for a title and registration, and pays all other fees required by this chapter within thirty days of establishing residency in this state as prescribed in subsection (a), section one-a of this article: Provided, That a period of amnesty of three months be established by the commissioner during the calendar year 2007, during which time any resident of this state, having titled his or her vehicle in a previous state of residence, may pay without penalty any fees required by this chapter and transfer the title of his or her vehicle in accordance with the provisions of this section.

(c) Notwithstanding any provisions of this code to the contrary, the owners of trailers, semitrailers, recreational vehicles and other vehicles not subject to the certificate of title tax prior to the enactment of this chapter are subject to the privilege tax imposed by this section: Provided, That the
certification of title of any recreational vehicle owned by the applicant on June 30, 1989, is not subject to the tax imposed by this section: Provided, however, That mobile homes, manufactured homes, modular homes and similar nonmotive propelled vehicles, except recreational vehicles and house trailers, susceptible of being moved upon the highways but primarily designed for habitation and occupancy, rather than for transporting persons or property, or any vehicle operated on a nonprofit basis and used exclusively for the transportation of intellectually disabled or physically disabled children when the application for certificate of registration for the vehicle is accompanied by an affidavit stating that the vehicle will be operated on a nonprofit basis and used exclusively for the transportation of intellectually disabled and physically disabled children, are not subject to the tax imposed by this section, but are taxable under the provisions of articles fifteen and fifteen-a, chapter eleven of this code.

(d) Beginning on July 1, 2008, the tax imposed under this subsection (b) of this section is abolished and after that date no certificate of title for any motor vehicle may be issued to any applicant unless the applicant provides sufficient proof to the Division of Motor Vehicles that the applicant has paid the fees required by this article and the tax imposed under section three-c, article fifteen, chapter eleven of this code.

(e) Any person making any affidavit required under any provision of this section who knowingly swears falsely, or any person who counsels, advises, aids or abets another in the commission of false swearing, or any person, while acting as an agent of the Division of Motor Vehicles, issues a vehicle registration without first collecting the fees and taxes or fails to perform any other duty required by this chapter or chapter eleven of this code to be performed before a vehicle registration is issued is, on the first offense, guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $500 or be confined in jail for a
period not to exceed six months or, in the discretion of the court, both fined and confined. For a second or any subsequent conviction within five years, that person is guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000 or be imprisoned in a state correctional facility for not less than one year nor more than five years or, in the discretion of the court, both fined and imprisoned.

(f) Notwithstanding any other provisions of this section, any person in the military stationed outside West Virginia or his or her dependents who possess a motor vehicle with valid registration are exempt from the provisions of this article for a period of nine months from the date the person returns to this state or the date his or her dependent returns to this state, whichever is later.

(g) No person may transfer, purchase or sell a factory-built home without a certificate of title issued by the commissioner in accordance with the provisions of this article:

(1) Any person who fails to provide a certificate of title upon the transfer, purchase or sale of a factory-built home is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined not less than $100 nor more than $1,000, or be confined in jail for not more than one year, or both fined and confined. For each subsequent offense, the fine may be increased to not more than $2,000, with confinement in jail not more than one year, or both fined and confined.

(2) Failure of the seller to transfer a certificate of title upon sale or transfer of the factory-built home gives rise to a cause of action, upon prosecution thereof, and allows for the recovery of damages, costs and reasonable attorney fees.

(3) This subsection does not apply to a mobile or manufactured home for which a certificate of title has been canceled pursuant to section twelve-b of this article.
(h) Notwithstanding any other provision to the contrary, whenever reference is made to the application for or issuance of any title or the recordation or release of any lien, it includes the application, transmission, recordation, transfer of ownership and storage of information in an electronic format.

(i) Notwithstanding any other provision contained in this section, nothing herein shall be considered to include modular homes as defined in subsection (i), section two, article fifteen, chapter thirty-seven of this code and built to the state building code as established by legislative rules promulgated by the State Fire Commission pursuant to section five-b, article three, chapter twenty-nine of this code.

(j) The provisions of this section enacted in 2017 take effect on July 1, 2017.

ARTICLE 4. TRANSFERS OF TITLE OR INTEREST.

§17A-4-1. Registration expires on transfer by owner; transfer, surrender or retention of plates.

Whenever the owner of a registered vehicle transfers or assigns his or her title, or interest thereto, the registration of such vehicle shall expire: Provided, That such owner, if he or she has made application to the department within sixty days from the date of purchase to have said registration plates transferred to be used on another vehicle owned by said owner, may then operate the other vehicle for a period of sixty days, but in no event longer than sixty days from the date of original transfer. Upon such transfer, it shall be the duty of the original owner to retain the registration plates issued therefor and to immediately notify the commissioner of such transfer upon such form as may be provided therefor and to deliver to him or her the certificate of registration, whereupon the commissioner shall, upon the payment of a fee of $10, issue a new certificate showing the use to be made of such plates. The Division of Motor Vehicles may
adjust the fee for each new certificate every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. Such plates may then be used by such owner on another vehicle of the same class as the vehicle for which they were originally issued if such other vehicle does not require a greater license fee than was required for such original vehicle. If such other vehicle requires a greater license fee than such original vehicle, then such plates may be used by paying such difference to the commissioner. When such transfer of ownership is made to a licensed dealer in motor vehicles it shall be the duty of such dealer to immediately execute notification of transfer, in triplicate, and to have this notification properly signed by the owner making the transfer. The dealer shall immediately forward to the department the original copy of the notification of transfer. One copy of the notification of transfer shall be given to the owner and one shall be retained by the dealer. The owner shall immediately send to the department the transfer fee of $10 with any additional fee that may be required under the terms of this chapter. The owner’s copy, properly signed by the dealer, will be the owner’s identification until he or she receives a new registration card from the department.

The owner of a set of registration plates may surrender them to the commissioner together with the registration card and, upon the payment of $10 as an exchange fee and upon the payment of such additional fees as are necessary to equalize the value of the plates surrendered with the value of registration plates desired, receive in exchange a set of plates and registration card for a vehicle of a different class.

§17A-4-10. Salvage certificates for certain wrecked or damaged vehicles; fee; penalty.

(a) In the event a motor vehicle is determined to be a total loss or otherwise designated as totaled by an insurance company or insurer, and upon payment of a total loss claim
to an insured or claimant owner for the purchase of the vehicle, the insurance company or the insurer, as a condition of the payment, shall require the owner to surrender the certificate of title: Provided, That an insured or claimant owner may choose to retain physical possession and ownership of a total loss vehicle. If the vehicle owner chooses to retain the vehicle and the vehicle has not been determined to be a cosmetic total loss in accordance with subsection (d) of this section, the insurance company or insurer shall also require the owner to surrender the vehicle registration certificate. The term “total loss” means a motor vehicle which has sustained damages equivalent to seventy-five percent or more of the market value as determined by a nationally accepted used car value guide or meets the definition of a flood-damaged vehicle as defined in this section.

(b) The insurance company or insurer shall, prior to the payment of the total loss claim, determine if the vehicle is repairable, cosmetically damaged or nonrepairable. Except as provided in subsection (p) of this section, within ten days of payment of the total loss claim, the insurance company or insurer shall surrender the certificate of title, a copy of the claim settlement, a completed application on a form prescribed by the commissioner and the registration certificate if the owner has chosen to keep the vehicle to the Division of Motor Vehicles.

(c) If the insurance company or insurer determines that the vehicle is repairable, the division shall issue a salvage certificate, on a form prescribed by the commissioner, in the name of the insurance company, the insurer or the vehicle owner if the owner has chosen to retain the vehicle. The certificate shall contain, on the reverse, spaces for one successive assignment before a new certificate at an additional fee is required. Upon the sale of the vehicle, the insurance company, insurer or vehicle owner if the owner has chosen to retain the vehicle, shall complete the assignment of ownership on the salvage certificate and
deliver it to the purchaser. The vehicle may not be titled or registered for operation on the streets or highways of this state unless there is compliance with subsection (h) of this section. The division shall charge a fee of $22.50 for each salvage title issued. The Division of Motor Vehicles may adjust the fee for each salvage title every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(d) If the insurance company or insurer determines the damage to a totaled vehicle is exclusively cosmetic and no repair is necessary in order to legally and safely operate the motor vehicle on the roads and highways of this state, the insurance company or insurer shall, upon payment of the claim, submit the certificate of title to the division. Neither the insurance company nor the division may require the vehicle owner to surrender the registration certificate in the event of a cosmetic total loss settlement.

(1) The division shall, without further inspection, issue a title branded “cosmetic total loss” to the insured or claimant owner if the insured or claimant owner wishes to retain possession of the vehicle, in lieu of a salvage certificate. The division shall charge a fee of $22.50 for each cosmetic total loss title issued. The terms “cosmetically damaged” and “cosmetic total loss” do not include any vehicle which has been damaged by flood or fire. The designation “cosmetic total loss” on a title may not be removed. The Division of Motor Vehicles may adjust the fee for each cosmetic total loss title every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(2) If the insured or claimant owner elects not to take possession of the vehicle and the insurance company or insurer retains possession, the division shall issue a
cosmetic total loss salvage certificate to the insurance company or insurer. The division shall charge a fee of $22.50 for each cosmetic total loss salvage certificate issued. The Division of Motor Vehicles may adjust the fee for each cosmetic total loss salvage certificate every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. The division shall, upon surrender of the cosmetic total loss salvage certificate issued under the provisions of this paragraph and payment of the five percent motor vehicle sales tax on the fair market value of the vehicle as determined by the commissioner, issue a title branded “cosmetic total loss” without further inspection.

(e) If the insurance company or insurer determines that the damage to a totaled vehicle renders it nonrepairable, incapable of safe operation for use on roads and highways and as having no resale value except as a source of parts or scrap, the insurance company or vehicle owner shall, in the manner prescribed by the commissioner, request that the division issue a nonrepairable motor vehicle certificate in lieu of a salvage certificate. The division shall issue a nonrepairable motor vehicle certificate without charge.

(f) Any owner who scraps, compresses, dismantles or destroys a vehicle without further transfer or sale for which a certificate of title, nonrepairable motor vehicle certificate or salvage certificate has been issued shall, within forty-five days, surrender the certificate of title, nonrepairable motor vehicle certificate or salvage certificate to the division for cancellation.

(g) Any person who purchases or acquires a vehicle as salvage or scrap, to be dismantled, compressed or destroyed, shall, within forty-five days, surrender to the division the certificate of title, nonrepairable motor vehicle certificate, salvage certificate or a statement of cancellation signed by the seller, on a form prescribed by the
commissioner. Subsequent purchasers of salvage or scrap are not required to comply with the notification requirement.

(h) If the motor vehicle is a “reconstructed vehicle” as defined in this section or section one, article one of this chapter, it may not be titled or registered for operation until it has been inspected by an official state inspection station and by the Division of Motor Vehicles. Following an approved inspection, an application for a new certificate of title may be submitted to the division. The applicant is required to retain all receipts for component parts, equipment and materials used in the reconstruction. The salvage certificate shall also be surrendered to the division before a certificate of title may be issued with the appropriate brand.

(i) The owner or title holder of a motor vehicle titled in this state which has previously been branded in this state or another state as salvage, reconstructed, cosmetic total loss, cosmetic total loss salvage, flood, fire, an equivalent term under another state’s laws or a term consistent with the intent of the National Motor Vehicle Title Information System established pursuant to 49 U. S. C. §30502 shall, upon becoming aware of the brand, apply for and receive a title from the Division of Motor Vehicles on which the brand “reconstructed”, “salvage”, “cosmetic total loss”, “cosmetic total loss salvage”, “flood”, “fire” or other brand is shown. The division shall charge a fee of $10 for each title so issued. The Division of Motor Vehicles may adjust the fee for each reconstructed, salvage, cosmetic total loss, cosmetic total loss salvage, flood, fire or other brand title issued every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(j) If application is made for title to a motor vehicle, the title to which has previously been branded reconstructed,
salvage, cosmetic total loss, cosmetic total loss salvage, flood, fire or other brand by the Division of Motor Vehicles under this section and said application is accompanied by a title from another state which does not carry the brand, the division shall, before issuing the title, affix the brand “reconstructed”, “cosmetic total loss”, “cosmetic total loss salvage”, “flood”, “fire” or other brand to the title. The motor vehicle sales tax paid on a motor vehicle titled as reconstructed, cosmetic total loss, flood, fire or other brand under the provisions of this section shall be based on fifty percent of the fair market value of the vehicle as determined by a nationally accepted used car value guide to be used by the commissioner.

(k) The division shall charge a fee of $22.50 for the issuance of each salvage certificate or cosmetic total loss salvage certificate but shall not require the payment of the five percent motor vehicle sales tax. The Division of Motor Vehicles may adjust the fee for each salvage certificate or cosmetic total loss salvage certificate every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. However, upon application for a certificate of title for a reconstructed, cosmetic total loss, flood or fire damaged vehicle or other brand, the division shall collect the five percent privilege tax on the fair market value of the vehicle as determined by the commissioner unless the applicant is otherwise exempt from the payment of such privilege tax. A wrecker/dismantler/rebuilder, licensed by the division, is exempt from the payment of the five percent privilege tax upon titling a reconstructed vehicle. The division shall collect a fee of $35 per vehicle for inspections of reconstructed vehicles. These fees shall be deposited in a special fund created in the State Treasurer’s office and may be expended by the division to carry out the provisions of this article: Provided, That on and after July 1, 2007, any balance in the special fund and all fees collected pursuant to
this section shall be deposited in the State Road Fund. Licensed wreckers/dismantlers/rebuilders may charge a fee not to exceed $25 for all vehicles owned by private rebuilders which are inspected at the place of business of a wrecker/dismantler/rebuilder.

(l) As used in this section:

(1) “Reconstructed vehicle” means the vehicle was totaled under the provisions of this section or by the provisions of another state or jurisdiction and has been rebuilt in accordance with the provisions of this section or in accordance with the provisions of another state or jurisdiction or meets the provisions of subsection (n), section one, article one of this chapter.

(2) “Flood-damaged vehicle” means that the vehicle was submerged in water to the extent that water entered the passenger or trunk compartment.

(3) “Other brand” means a brand consistent with the intent of the National Motor Vehicle Title Information System established pursuant to 49 U. S. C. §30502 and rules promulgated by the United States Department of Justice to alert consumers, motor vehicle dealers or the insurance industry of the history of a vehicle.

(m) Every vehicle owner shall comply with the branding requirements for a totaled vehicle whether or not the owner receives an insurance claim settlement for a totaled vehicle.

(n) A certificate of title issued by the division for a reconstructed vehicle shall contain markings in bold print on the face of the title that it is for a reconstructed, flood- or fire-damaged vehicle.

(o) Any person who knowingly provides false or fraudulent information to the division that is required by this section in an application for a title, a cosmetic total loss title, a reconstructed vehicle title or a salvage certificate or who knowingly fails to disclose to the division information
required by this section to be included in the application or
who otherwise violates the provisions of this section is
guilty of a misdemeanor and, upon conviction thereof, shall
for each incident be fined not less than $1,000 nor more than
$2,500, or imprisoned in jail for not more than one year, or
both fined and imprisoned.

(p) Notwithstanding any other provision of law and with
respect to a vehicle which the vehicle owner has not chosen
to retain, if an insurance company or insurer is unable to
obtain the properly endorsed certificate of title for a motor
vehicle within thirty days of the payment of a total loss
claim, the insurance company or insurer, at any time
thereafter, may apply to the Division of Motor Vehicles for
a salvage certificate, a cosmetic total loss salvage certificate
or a nonrepairable motor vehicle certificate as applicable.
The application shall be accompanied by evidence that the
insurance company or insurer has paid a total loss claim on
the vehicle, a copy of a written request for the certificate of
title sent to the vehicle owner and any known lienholder by
the insurance company or insurer or a designee of the
insurance company or insurer, proof that the request was
sent by certified mail, return receipt requested, to the last
known address of the vehicle owner and any known
lienholder, service to be complete upon the mailing thereof,
and the required fee, if applicable. Upon receipt of a
properly completed application, the division shall issue a
salvage certificate, a cosmetic total loss salvage certificate
or a nonrepairable motor vehicle certificate, as applicable,
in the name of the insurance company or insurer. Such
salvage certificate, cosmetic total loss salvage certificate or
nonrepairable motor vehicle certificate shall be issued free
and clear of all liens and claims of ownership.

(q) If an insurance company or insurer requests that an
automobile auction take possession of a motor vehicle that
is the subject of an insurance claim, and subsequently the
insurance company denies coverage with respect to the
motor vehicle or otherwise does not take ownership of the
motor vehicle, the automobile auction may proceed as follows. At any time after the automobile auction has had possession of the motor vehicle for forty-five days, it may apply to the division for a salvage certificate or a nonrepairable motor vehicle certificate without surrendering the certificate of title for the motor vehicle. The application shall be accompanied by a copy of a written request, on the automobile auction’s letterhead, requesting that, upon payment of applicable charges, the vehicle be removed from the automobile auction’s facility, proof that the request was delivered by a nationally-recognized courier service or by certified mail to the vehicle owner and any known lienholder at least fifteen days before the date of the application, and the required fee, if applicable. Upon receipt of a properly completed application, the division shall issue a salvage certificate or a nonrepairable motor vehicle certificate, as applicable, in the name of the automobile auction. Such salvage certificate or nonrepairable motor vehicle certificate shall be issued free and clear of all liens and claims of ownership.

(r) An applicant pursuant to subsection (p) or (q) of this section shall indemnify and hold harmless the Division of Motor Vehicles from any liability arising from an error or misrepresentation made by such applicant in a submission to the division pursuant to subsection (p) or (q) of this section.

(s) The provisions of this article enacted in 2017 take effect on July 1, 2017.
the owner and endorsing it upon the title certificate issued pursuant to this article. The Division of Motor Vehicles may adjust the fee for each lien recording every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. The Division of Motor Vehicles may adjust the fee for each recording of a lien release every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in the fee may not exceed ten percent of the total fee amount in a single year: Provided, however, That no charge shall be made for the endorsement and recordation of liens or releases thereof as provided under section nine of this article. No charge shall be made for the issuance of a title to the owner of a vehicle upon the receipt of an electronic release of the final lien.

The provisions of this section enacted in 2017 take effect on July 1, 2017.

ARTICLE 7. SPECIAL STICKERS.

§17A-7-2. Operation of motor vehicles by dealers or other persons under special stickers; application and fees; expiration.

(a) A member of the West Virginia State Police may at any detachment office, upon application therefor on a form prescribed by the commissioner, issue to a licensed dealer or any other person other than those specified in section one of this article, a paper sticker or decal to be affixed to the left side of the rear window of a motor vehicle or to the left rear of a vehicle which is not self-propelled. Such sticker or decal shall be of a size to be designated by the commissioner
and shall be serially numbered and shall have provision thereon to indicate the date of issuance thereof.

(b) A fee of $10 per sticker shall be collected. The Division of Motor Vehicles may adjust the fee for each sticker every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. The fees will be dispersed as follows: Half shall be deposited in the State Road Fund and half shall be deposited in the special revenue account within the Division of Highways for the maintenance of the West Virginia welcome centers and rest areas along interstate highways in this state.

(c) Such sticker or decal shall be valid for forty-eight hours after its issuance for the operation of a vehicle, whether under its own power or while being towed, one time only over the streets or highways, and upon being once affixed to a vehicle shall become invalid for subsequent use on that or any other vehicle.

(d) The provisions of this section enacted in 2017 take effect on July 1, 2017.

ARTICLE 10. FEES FOR REGISTRATION, LICENSING, ETC.

§17A-10-3. Registration fees for vehicles equipped with pneumatic tires.

The following registration fees for the classes indicated shall be paid to the division for the registration of vehicles subject to registration under this chapter when equipped with pneumatic tires:

(a) Registration fees for the following classes shall be paid to the division annually:

...
(1) Class A. — The registration fee for motor vehicles of this class is $50. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year: Provided, however, That the registration fees and any other fees required by this chapter for Class A vehicles under the optional biennial staggered registration system shall be multiplied by two and paid biennially to the division.

No license fee may be charged for vehicles owned by churches, or by trustees for churches, which are regularly used for transporting parishioners to and from church services. Notwithstanding the exemption, the certificate of registration and license plates shall be obtained the same as other cards and plates under this article.

(2) Class B. — The registration fee for all motor vehicles of this class is as follows:

(A) For declared gross weights of ten thousand one pounds to sixteen thousand pounds — $28 plus $5 for each one thousand pounds or fraction of one thousand pounds that the gross weight of the vehicle or combination of vehicles exceeds ten thousand pounds.

(B) For declared gross weights greater than sixteen thousand pounds, but less than fifty-five thousand pounds — $78.50 plus $10 for each one thousand or fraction of one thousand pounds that the gross weight of the vehicle or combination of vehicles exceeds sixteen thousand pounds.

(C) For declared gross weights of fifty-five thousand pounds or more — $737.50 plus $15.75 for each one thousand pounds or fraction of one thousand pounds that the gross weight of the vehicle or combination of vehicles exceeds fifty-five thousand pounds.
(3) **Class G.** — The registration fee for each motorcycle or parking enforcement vehicle is $8: *Provided,* That the registration fee and any other fees required by this chapter for Class G vehicles shall be for at least one year from the date of registration and under an optional biennial registration system the annual fee shall be multiplied by two and paid biennially to the division.

(4) **Class H.** — The registration fee for all vehicles for this class operating entirely within the state is $5; and for vehicles engaged in interstate transportation of persons, the registration fee is the amount of the fees provided by this section for Class B, reduced by the amount that the mileage of the vehicles operated in states other than West Virginia bears to the total mileage operated by the vehicles in all states under a formula to be established by the Division of Motor Vehicles.

(5) **Class J.** — The registration fee for all motor vehicles of this class is $85. Ambulances and hearses used exclusively as ambulances and hearses are exempt from the special fees set forth in this section.

(6) **Class M.** — The registration fee for all vehicles of this class is $17.50.

(7) **Class X.** — The registration fee for all motor vehicles of this class is as follows:

(A) For farm trucks of declared gross weights of eight thousand one pounds to sixteen thousand pounds — $30.

(B) For farm trucks of declared gross weights of sixteen thousand one pounds to twenty-two thousand pounds — $60.

(C) For farm trucks of declared gross weights of twenty-two thousand one pounds to twenty-eight thousand pounds — $90.
(D) For farm trucks of declared gross weights of twenty-eight thousand one pounds to thirty-four thousand pounds — $115.

(E) For farm trucks of declared gross weights of thirty-four thousand one pounds to forty-four thousand pounds — $160.

(F) For farm trucks of declared gross weights of forty-four thousand one pounds to fifty-four thousand pounds — $205.

(G) For farm trucks of declared gross weights of fifty-four thousand one pounds to eighty thousand pounds — $250: Provided, That the provisions of subsection (a), section eight, article one, chapter seventeen-e of this code do not apply if the vehicle exceeds sixty-four thousand pounds and is a truck tractor or road tractor.

(b) Registration fees for the following classes shall be paid to the division for a maximum period of three years, or portion of a year based on the number of years remaining in the three-year period designated by the commissioner:

(1) **Class R.** — The annual registration fee for all vehicles of this class is $12.

(2) **Class T.** — The annual registration fee for all vehicles of this class is $8.

(c) The fees paid to the division for a multiyear registration provided by this chapter shall be the same as the annual registration fee established by this section and any other fee required by this chapter multiplied by the number of years for which the registration is issued.

(d) The registration fee for all Class C vehicles is $50. All Class C trailers shall be registered for the duration of the owner’s interest in the trailer and do not expire until either sold or otherwise permanently removed from the service of the owner: Provided, That a registrant may transfer a Class
C registration plate from a trailer owned less than thirty days to another Class C trailer titled in the name of the registrant upon payment of the transfer fee prescribed in section ten of this article.

§17A-10-3c. Additional registration fees for alternative fuel vehicles.

(a) The annual registration fee for a vehicle fueled with hydrogen or natural gas is $200.

(b) The annual registration fee for a vehicle operating on a combination of electricity and petrochemical fuels is $100.

(c) The annual registration fee for a vehicle operating exclusively on electricity is $200.

(d) The fees imposed by this section are in addition to any other fee set forth in this article.

§17A-10-10. Fees upon transfer of registration and issuance of certificates of title.

A fee of $10 shall be paid for a transfer of registration by an owner from one vehicle to another vehicle of the same class or for surrender of registration of one vehicle in exchange for registration of a vehicle of a different class in addition to the payment of any difference in fees as provided in section one, article four of this chapter. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

A fee of $10 shall be paid for the transfer of registration from a deceased person to his or her legal heir or legatee as provided in section five, article four of this chapter. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of

A fee of $10 shall be paid for the issuance of duplicate or substitute registration plates, registration cards or certificates of title. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. The provisions of this article enacted in 2017 take effect on July 1, 2017.

CHAPTER 17B. MOTOR VEHICLE DRIVER’S LICENSES.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

§17B-2-1. Drivers must be licensed; types of licenses; licensees need not obtain local government license; motorcycle driver license; identification cards.

(a) (1) No person, except those hereinafter expressly exempted, may drive a motor vehicle upon a street or highway in this state or upon a subdivision street used by the public generally unless the person has a valid driver’s license issued pursuant to this code for the type or class of vehicle being driven.
(2) Any person licensed to operate a motor vehicle pursuant to this code may exercise the privilege thereby granted in the manner provided in this code and, except as otherwise provided by law, is not required to obtain any other license to exercise the privilege by a county, municipality or local board or body having authority to adopt local police regulations.

(b) The division, upon issuing a driver’s license, shall indicate on the license the type or general class or classes of vehicles the licensee may operate in accordance with this code, federal law or rule. Licenses shall be issued in different colors for those drivers under age eighteen, those drivers age eighteen to twenty-one and adult drivers. The commissioner is authorized to select and assign colors to the licenses of the various age groups.

(c) The following drivers’ licenses classifications are hereby established:

(1) A Class A, B or C license shall be issued to those persons eighteen years of age or older with two years of driving experience who have qualified for the commercial driver’s license established by chapter seventeen-e of this code and the federal Motor Carrier Safety and Improvement Act of 1999 and subsequent rules and have paid the required fee.

(2) A Class D license shall be issued to those persons eighteen years and older with one year of driving experience who operate motor vehicles other than those types of vehicles which require the operator to be licensed under the provisions of chapter seventeen-e of this code and federal law and rule and whose primary function or employment is the transportation of persons or property for compensation or wages and have paid the required fee. For the purpose of regulating the operation of motor vehicles, wherever the term “chauffeur’s license” is used in this code, it means the Class A, B, C or D license described in this section or chapter seventeen-e of this code or federal law or rule:
Provided, That anyone not required to be licensed under the provisions of chapter seventeen-e of this code and federal law or rule and who operates a motor vehicle registered or required to be registered as a Class A motor vehicle, as that term is defined in section one, article ten, chapter seventeen-a of this code, with a gross vehicle weight rating of less than eight thousand one pounds, is not required to obtain a Class D license.

(3) A Class E license shall be issued to persons who have qualified for a driver’s license under the provisions of this chapter and who are not required to obtain a Class A, B, C or D license and who have paid the required fee. The Class E license may be endorsed under the provisions of section seven-b of this article for motorcycle operation. The Class E or G license for a person under the age of eighteen may also be endorsed with the appropriate graduated driver license level in accordance with the provisions of section three-a of this article.

(4) A Class F license shall be issued to those persons who successfully complete the motorcycle examination procedure provided by this chapter and have paid the required fee but who do not possess a Class A, B, C, D or E driver’s license.

(5) A Class G driver’s license or instruction permit shall be issued to a person using bioptic telescopic lenses who has successfully completed an approved driver training program and complied with all other requirements of article two-b of this chapter.

(d) All licenses issued under this section may contain information designating the licensee as a diabetic, organ donor, as deaf or hard-of-hearing, as having any other handicap or disability or that the licensee is an honorably discharged veteran of any branch of the Armed Forces of the United States, according to criteria established by the division, if the licensee requests this information on the license. An honorably discharged veteran may be issued a
replacement license without charge if the request is made before the expiration date of the current license and the only purpose for receiving the replacement license is to get the veterans designation placed on the license.

(e) No person, except those hereinafter expressly exempted, may drive a motorcycle on a street or highway in this state or on a subdivision street used by the public generally unless the person has a valid motorcycle license, a valid license which has been endorsed under section seven-b of this article for motorcycle operation or a valid motorcycle instruction permit.

(f) (1) An identification card may be issued to a person who:

(A) Is a resident of this state in accordance with the provisions of section one-a, article three, chapter seventeen-a of this code;

(B) Has reached the age of two years or, for good cause shown, under the age of two.

(C) Has paid the required fee of $5 per year. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year: Provided, however, That no fees or charges, including renewal fees, are required if the applicant:

(i) Is sixty-five years or older;

(ii) Is legally blind; or

(iii) Will be at least eighteen years of age at the next general, municipal or special election and intends to use this identification card as a form of identification for voting; and
(D) Presents a birth certificate or other proof of age and identity acceptable to the division with a completed application on a form furnished by the division.

(2) The identification card shall contain the same information as a driver’s license except that the identification card shall be clearly marked as an identification card. The division may issue an identification card with less information to persons under the age of sixteen. An identification card may be renewed annually on application and payment of the fee required by this section.

(A) Every identification card issued to a person who has attained his or her twenty-first birthday expires on the licensee’s birthday in those years in which the licensee’s age is evenly divisible by five. Except as provided in paragraph (B) of this subdivision, no identification card may be issued for less than three years or for more than seven years and expires on the licensee’s birthday in those years in which the licensee’s age is evenly divisible by five.

(B) Every identification card issued to a person who has not attained his or her twenty-first birthday expires thirty days after the licensee’s twenty-first birthday.

(C) Every identification card issued to persons under the age of sixteen shall be issued for a period of two years and expire on the last day of the month in which the applicant’s birthday occurs.

(3) The division may issue an identification card to an applicant whose privilege to operate a motor vehicle has been refused, canceled, suspended or revoked under the provisions of this code.

(g) For any person over the age of fifty years who wishes to obtain a driver’s license or identification card under the provisions of this section:
(1) A raised seal or stamp on the birth certificate or certified copy of the birth certificate is not required if the issuing jurisdiction does not require one; and

(2) If documents are lacking to prove all changes of name in the history of any such applicant, applicants renewing a driver’s license or identification card under the provisions of this section may complete a Name Variance Approval Document as instituted by the division, so long as they can provide:

(A) Proof of identity;

(B) Proof of residency; and

(C) A valid Social Security number.

(3) The division may waive any documents necessary to prove a match between names, so long as the division determines the person is not attempting to:

(A) Change his or her identity;

(B) Assume another person’s identity; or

(C) Commit a fraud.

(h) A person over the age of seventy years, or who is on Social Security disability, who wishes to obtain or renew a driver’s license or identification card under the provisions of this section, may not be required to furnish a copy of a birth certificate if they can provide:

(1) Proof of identity;

(2) Proof of residency;

(3) A valid Social Security number; and

(4) One of the following identifying items:
(A) A form of military identification, including a DD214 or equivalent;

(B) A U. S. passport, whether valid or expired;

(C) School records, including a yearbook;

(D) A religious document, that in the judgment of the Division is sufficient and authentic to reflect that the person was born in the United States; or

(E) An expired driver’s license, employment identification card, or other reliable identification card with a recognizable photograph of the person.

(i) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than $500 and, upon a second or subsequent conviction, shall be fined not more than $500 or confined in jail not more than six months, or both fined and confined.

§17B-2-3a. Graduated driver’s license.

(a) Any person under the age of eighteen may not operate a motor vehicle unless he or she has obtained a graduated driver’s license in accordance with the three-level graduated driver’s license system described in the following provisions.

(b) Any person under the age of twenty-one, regardless of class or level of licensure, who operates a motor vehicle with any measurable alcohol in his or her system is subject to the provisions of section two, article five, chapter seventeen-c of this code and section two, article five-a of said chapter. Any person under the age of eighteen, regardless of class or licensure level, is subject to the mandatory school attendance and satisfactory academic progress provisions of section eleven, article eight, chapter eighteen of this code.
(c) **Level one instruction permit.** — An applicant who is fifteen years or older meeting all other requirements prescribed in this code may be issued a level one instruction permit.

(1) **Eligibility.** — The division shall not issue a level one instruction permit unless the applicant:

(A) Presents a completed application, as prescribed by the provisions of section six of this article, and which is accompanied by a writing, duly acknowledged, consenting to the issuance of the graduated driver’s license and executed by a parent or guardian entitled to custody of the applicant;

(B) Presents a certified copy of a birth certificate issued by a state or other governmental entity responsible for vital records unexpired, or a valid passport issued by the United States government evidencing that the applicant meets the minimum age requirement and is of verifiable identity;

(C) Passes the vision and written knowledge examination and completes the driving under the influence awareness program, as prescribed in section seven of this article;

(D) Presents a driver’s eligibility certificate or otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen of this code; and

(E) Pays a fee of $7.50, which shall permit the applicant one attempt at the written knowledge test. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: **Provided**, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(2) **Terms and conditions of instruction permit.** — A level one instruction permit issued under the provisions of this section is valid until thirty days after the date the
applicant attains the age of eighteen and is not renewable. However, any permit holder who allows his or her permit to expire prior to successfully passing the road skills portion of the driver examination, and who has not committed any offense which requires the suspension, revocation or cancellation of the instruction permit, may reapply for a new instruction permit under the provisions of section six of this article. The division shall immediately revoke the permit upon receipt of a second conviction for a moving violation of traffic regulations and laws of the road or violation of the terms and conditions of a level one instruction permit, which convictions have become final unless a greater penalty is required by this section or any other provision of this code. Any person whose instruction permit has been revoked is disqualified from retesting for a period of ninety days. However, after the expiration of ninety days, the person may retest if otherwise eligible. In addition to all other provisions of this code for which a driver’s license may be restricted, suspended, revoked or canceled, the holder of a level one instruction permit may only operate a motor vehicle under the following conditions:

(A) Under the direct supervision of a licensed driver, twenty-one years of age or older, or a driver’s education or driving school instructor who is acting in an official capacity as an instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be operated with no more than two additional passengers, unless the passengers are family members;

(B) Between the hours of five a.m. and ten p.m.;

(C) All occupants must use safety belts in accordance with the provisions of section forty-nine, article fifteen, chapter seventeen-c of this code;

(D) Without any measurable blood alcohol content, in accordance with the provisions of subsection (h), section two, article five, chapter seventeen-c of this code; and
(E) Maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen of this code.

(F) A holder of a level one instruction permit who is under the age of eighteen years shall be prohibited from using a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. A person violating the provisions of this paragraph is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined $25; for a second offense be fined $50; and for a third or subsequent offense be fined $75.

(d) **Level two intermediate driver’s license.** — An applicant sixteen years of age or older, meeting all other requirements of the code, may be issued a level two intermediate driver’s license.

(1) **Eligibility.** — The division shall not issue a level two intermediate driver’s license unless the applicant:

(A) Presents a completed application as prescribed in section six of this article;

(B) Has held the level one instruction permit conviction-free for the one hundred eighty days immediately preceding the date of application for a level two intermediate license;

(C) Has completed either a driver’s education course approved by the state Department of Education or fifty hours of behind-the-wheel driving experience, including a minimum of ten hours of nighttime driving, certified by a parent or legal guardian or other responsible adult over the age of twenty-one as indicated on the form prescribed by the division: **Provided,** That nothing in this paragraph shall be construed to require any school or any county board of education to provide any particular number of driver’s
Ch. 6] TAXATION 2473

118 education courses or to provide driver’s education training to any student;

120 (D) Presents a driver’s eligibility certificate or otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen of this code;

123 (E) Passes the road skills examination as prescribed by section seven of this article; and

125 (F) Pays a fee of $7.50 for one attempt. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

(2) Terms and conditions of a level two intermediate driver’s license. — A level two intermediate driver’s license issued under the provisions of this section shall expire thirty days after the applicant attains the age of eighteen, or until the licensee qualifies for a level three full Class E license, whichever comes first. In addition to all other provisions of this code for which a driver’s license may be restricted, suspended, revoked or canceled, the holder of a level two intermediate driver’s license may only operate a motor vehicle under the following conditions:

141 (A) Unsupervised between the hours of five a.m. and ten p.m.;

143 (B) Only under the direct supervision of a licensed driver, age twenty-one years or older, between the hours of ten p.m. and five a.m. except when the licensee is going to or returning from:

147 (i) Lawful employment;

148 (ii) A school-sanctioned activity;

149 (iii) A religious event; or
(iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent bodily injury or death of another;

(C) All occupants shall use safety belts in accordance with the provisions of section forty-nine, article fifteen, chapter seventeen-c of this code;

(D) For the first six months after issuance of a level two intermediate driver’s license, the licensee may not operate a motor vehicle carrying any passengers less than twenty years old, unless these passengers are family members of the licensee; for the second six months after issuance of a level two intermediate driver’s license, the licensee may not operate a motor vehicle carrying more than one passenger less than twenty years old, unless these passengers are family members of the licensee;

(E) Without any measurable blood alcohol content in accordance with the provisions of subsection (h), section two, article five, chapter seventeen-c of this code;

(F) Maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen of this code;

(G) A holder of a level two intermediate driver’s license who is under the age of eighteen years shall be prohibited from using a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. A person violating the provisions of this paragraph is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined $25; for a second offense be fined $50; and for a third or subsequent offense be fined $75.

(H) Upon the first conviction for a moving traffic violation or a violation of paragraph (A), (B), (C), (D) or (G), subdivision (1), subsection (d) of this section of the
terms and conditions of a level two intermediate driver’s license, the licensee shall enroll in an approved driver improvement program unless a greater penalty is required by this section or by any other provision of this code; and

At the discretion of the commissioner, completion of an approved driver improvement program may be used to negate the effect of a minor traffic violation as defined by the commissioner against the one year conviction-free driving criteria for early eligibility for a level three driver’s license and may also negate the effect of one minor traffic violation for purposes of avoiding a second conviction under paragraph (I) of this subdivision; and

(I) Upon the second conviction for a moving traffic violation or a violation of the terms and conditions of the level two intermediate driver’s license, the licensee’s privilege to operate a motor vehicle shall be revoked or suspended for the applicable statutory period or until the licensee’s eighteenth birthday, whichever is longer unless a greater penalty is required by this section or any other provision of this code. Any person whose driver’s license has been revoked as a level two intermediate driver, upon reaching the age of eighteen years and if otherwise eligible may reapply for an instruction permit, then a driver’s license in accordance with the provisions of sections five, six and seven of this article.

(e) Level three, full Class E license. — The level three license is valid until thirty days after the date the licensee attains his or her twenty-first birthday. Unless otherwise provided in this section or any other section of this code, the holder of a level three full Class E license is subject to the same terms and conditions as the holder of a regular Class E driver’s license.

A level two intermediate licensee whose privilege to operate a motor vehicle has not been suspended, revoked or otherwise canceled and who meets all other requirements of the code may be issued a level three full Class E license
without further examination or road skills testing if the licensee:

(1) Has reached the age of seventeen years; and

(A) Presents a completed application as prescribed by the provisions of section six of this article;

(B) Has held the level two intermediate license conviction free for the twelve-month period immediately preceding the date of the application;

(C) Has completed any driver improvement program required under paragraph (G), subdivision (2), subsection (d) of this section; and

(D) Pays a fee of $2.50 for each year the license is valid. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver’s Licensing Fund established in section twelve, article two, chapter three of this code;

(E) Presents a driver’s eligibility certificate or otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen of this code; or

(2) Reaches the age of eighteen years; and

(A) Presents a completed application as prescribed by the provisions of section six of this article; and

(B) Pays a fee of $5 for each year the license is valid. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. An additional fee of $.50 shall be collected to be deposited in the Combined Voter Registration and Driver’s Licensing Fund established in section twelve, article two, chapter three of this code.
(f) A person violating the provisions of the terms and conditions of a level one or level two intermediate driver’s license is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined $25; for a second offense be fined $50; and for a third or subsequent offense be fined $75.

§17B-2-5. Qualifications, issuance and fee for instruction permits.

(a) Any person who is at least fifteen years of age may apply to the division for an instruction permit. However, any person who has not attained the age of eighteen shall comply with the provisions of section three-a of this article. The division may, in its discretion, after the applicant has successfully passed all parts of the examination other than the road skills test, issue to the applicant an instruction permit which entitles the applicant while having the permit in his or her immediate possession to drive a motor vehicle upon the public highways when accompanied by a licensed driver of at least twenty-one years of age, a driver’s education or driving school instructor that is acting in an official capacity as an instructor, who is alert and unimpaired or a certified division license examiner acting in an official capacity as an examiner, who is occupying a seat beside the driver.

(1) Any instruction permit issued to a person under the age of eighteen years shall be issued in accordance with the provisions of section three-a of this article.

(2) Any permit issued to a person who has reached the age of eighteen years is valid for a period of ninety days. The fee for the instruction permit is $7.50 for one attempt. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.
(b) Any person sixteen years of age or older may apply to the division for a motorcycle instruction permit. Any person under the age of eighteen must have first completed the requirements for a level two intermediate driver’s license or a Class E driver’s license before being eligible for a motorcycle instruction permit.

The division may, in its discretion, after the applicant has successfully passed all parts of the motorcycle examination other than the driving test, and presented documentation of compliance with the provisions of section eleven, article eight, chapter eighteen of this code, if applicable, issue to the applicant an instruction permit which entitles the applicant while having the permit in his or her immediate possession to drive a motorcycle upon the public streets or highways for a period of ninety days, during the daylight hours between sunrise and sunset only. No holder of a motorcycle instruction permit shall operate a motorcycle while carrying any passenger on the vehicle.

A motorcycle instruction permit is not renewable, but a qualified applicant may apply for a new permit. The fee for a motorcycle instruction permit is $5, which shall be paid into a special fund in the State Treasury known as the motor vehicle fees fund.

§17B-2-6. Application for license or instruction permit; fee to accompany application.

(a) Every application for an instruction permit or for a driver’s license shall be made upon a form furnished by the division. Every application shall be accompanied by the proper fee and payment of the fee entitles an applicant under the age of eighteen to not more than two attempts at the written test or not more than one attempt to pass the road skills test. An applicant age eighteen years or older is entitled to not more than two attempts at the written test or not more than three attempts to pass the road skills test within a period of ninety days from the date of issuance of the instruction permit. An applicant who fails either the
written test or the road skills test may not be tested twice within a period of one week.

(b) Any applicant who has not been previously licensed must hold an instruction permit for a minimum of thirty days. For the purposes of this section, the term “previously licensed” means an applicant who has obtained at least a level two graduated license or junior driver’s license issued under the provisions of this article or has obtained an equal or greater level of licensure if previously licensed in another state.

c) Every application for an instruction permit shall state the full legal name, date of birth, sex, and residence address of the applicant and briefly describe the applicant. the application shall state whether the applicant has theretofore been a licensed driver and, if so, when, and by what state or country and whether his or her license has ever been suspended or revoked within five years of the date of application, or whether an application has ever been refused and, if so, the date of and reason for the suspension, revocation or refusal. The application will indicate whether the applicant desires a notation on the driver’s license indicating that the applicant is an organ donor, in accordance with article one-b of this chapter, is diabetic, deaf, or hard of hearing, has any other handicap or disability, or is an honorably discharged veteran of any branch of the Armed Forces of the United States, and such other pertinent information as the commissioner may require.

§17B-2-8. Issuance and contents of licenses; fees.

(a) The division shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver’s license, which shall indicate the type or general class or classes of vehicle or vehicles the licensee may operate in accordance with this chapter or chapter seventeen-e of this code, or motorcycle-only license. Each license shall contain a coded number assigned to the licensee, the full legal name,
date of birth, residence address, a brief description and a color photograph of the licensee and either a facsimile of the signature of the licensee or a space upon which the signature of the licensee is written with pen and ink immediately upon receipt of the license. No license is valid until it has been so signed by the licensee.

(b) A driver’s license which is valid for operation of a motorcycle shall contain a motorcycle endorsement. A driver’s license which is valid for the operation of a commercial motor vehicle shall be issued in accordance with chapter seventeen-e of this code.

(c) The division shall use such process or processes in the issuance of licenses that will, insofar as possible, prevent any identity theft, alteration, counterfeiting, duplication, reproduction, forging or modification of, or the superimposition of a photograph on, the license.

(d) The fee for the issuance of a Class E driver’s license is $5 per year for each year the license is valid. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. The fee for issuance of a Class D driver’s license is $6.25 per year for each year the license is valid. An additional fee of 50 cents shall be collected from the applicant at the time of original issuance or each renewal and the additional fee shall be deposited in the Combined Voter Registration and Driver’s Licensing Fund established pursuant to the provisions of section twelve, article two, chapter three of this code. The additional fee for adding a motorcycle endorsement to a driver’s license is $1 per year for each year the license is issued.

(e) The fee for issuance of a motorcycle-only license is $2.50 for each year for which the motorcycle license is valid. The fees for the motorcycle endorsement or
motorcycle-only license shall be paid into a special fund in the State Treasury known as the Motorcycle Safety Fund as established in section seven, article one-d of this chapter.

(f) The fee for the issuance of either the level one or level two graduated driver’s license as prescribed in section three-a of this article is $5.

(g) The fee for issuance of a federally compliant driver’s license or identification card for federal use is $10 in addition to any other fee required by this chapter. Any fees collected under the provisions of this subsection shall be deposited into the Motor Vehicle Fees Fund established in accordance with section twenty-one, article two, chapter seventeen-a of this code.

(h) The division may use an address on the face of the license other than the applicant’s address of residence if:

(1) The applicant has a physical address or location that is not recognized by the post office for the purpose of receiving mail;

(2) The applicant is enrolled in a state address confidentiality program or the alcohol test and lock program;

(3) The applicant’s address is entitled to be suppressed under a state or federal law or suppressed by a court order; or

(4) At the discretion of the commissioner, the applicant’s address may be suppressed to provide security for classes of applicants such as law-enforcement officials, protected witnesses and members of the state and federal judicial systems.

(i) Notwithstanding any provision in this article to the contrary, a valid military identification card with an expiration date issued by the United States Department of Defense for active duty, reserve or retired military personnel containing a digitized photo and the holder’s full legal name may be used to establish current full legal name and legal presence. The
commissioner may at his or her discretion expand the use of military identification cards for other uses as permitted under this code or federal rule.

§17B-2-11. Duplicate permits and licenses.

In the event that an instruction permit or driver’s license issued under the provisions of this chapter is lost or destroyed, or if the information contained on the license has changed, the person to whom the permit or license was issued may upon making proper application and upon payment of a fee of $7.50 obtain a duplicate thereof upon furnishing proof satisfactory to the division that the permit or license has been lost or destroyed. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

The provisions of this article enacted in 2017 take effect on July 1, 2017.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION AND REVOCATION OF LICENSES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES OR DRUGS.

§17C-5A-2a. Assessment of costs; special account created.

The Division of Motor Vehicles is hereby authorized and required to assess witness costs at the same rate as witness fees in circuit court and a docket fee of $15 for each hearing request against any person filing a request for a hearing under section two of this article who fails to appear, fails to have said order rescinded or fails to have said order modified to a lesser period of revocation. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index:
Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year. All fees and costs collected hereunder shall be paid into a special revenue account in the State Treasury: Provided, That on and after July 1, 2007, any unexpended balance remaining in the special revolving fund shall be transferred to the Motor Vehicle Fees Fund created under the provisions of section twenty-one, article two, chapter seventeen-a of this code and all further fees and costs collected shall be deposited in that fund. A portion of the funds in the Motor Vehicle Fees Fund may be used to pay or reimburse the various law-enforcement agencies at the same rate as witnesses in circuit court for the travel and appearance of its officers before the commissioner or authorized deputy or agent pursuant to a hearing request under the provisions of this article. The department shall authorize payment to the law-enforcement agencies from said account as the fees for a particular hearing request are received from the person against whom the costs were assessed. The department shall authorize transfer to an appropriate agency account from the Motor Vehicle Fees Fund to pay costs of registered and certified mailings and other expenses associated with the conduct of hearings under this article as the docket fee for a particular hearing request is received from the person against whom the costs were assessed.

In the event judicial review results in said order being rescinded or modified to a lesser period of revocation the costs assessed shall be discharged.

The provisions of this section enacted in 2017 take effect on July 1, 2017.

CHAPTER 17D. MOTOR VEHICLE SAFETY RESPONSIBILITY LAW.

ARTICLE 2. ADMINISTRATION OF LAW.

§17D-2-2. Commissioner to furnish abstract of operating record; fee for abstract.

The commissioner shall upon request and subject to the provisions of article two-a, chapter seventeen-a of this code,
furnish any person a certified abstract of the operating record of any person subject to the provisions of this chapter, and if there is no record of any conviction of the person of a violation of any law relating to the operation of a motor vehicle or of any injury or damage caused by the person, the commissioner shall so certify. The commissioner shall collect $7.50 for each abstract. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in such fee may not exceed ten percent of the total fee amount in a single year.

The provisions of this section enacted in 2017 take effect on July 1, 2017.

CHAPTER 7

(S. B. 1010 - By Senators Carmichael (Mr. President) and Prezioso)
[By Request of the Executive]

[Passed May 24, 2017; in effect from passage.]
[Approved by the Governor on June 9, 2017.]

AN ACT to amend and reenact §33-3-33a of the Code of West Virginia, 1931, as amended, relating to the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund; providing for the deposit of moneys into the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund until June 30, 2020; providing for the expiration of Volunteer Fire Department Workers’ Compensation Subsidy Program and closure of the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund on June 30, 2020; and providing for the transfer of any remaining moneys in the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund upon closure of such fund.
Be it enacted by the Legislature of West Virginia:

That §33-3-33a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

§33-3-33a. Excess moneys of Fire Protection Fund deposited into Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund; other funding; special report from State Fire Marshal by December 15, 2015; termination of program June 30, 2020.

(a) There is hereby established a special fund in the State Treasury known as the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund. The fund shall be administered by the State Auditor and shall consist of moneys deposited in the fund pursuant to this section, any other funds appropriated by the Legislature for volunteer fire departments for the purposes of section fourteen-a, article four, chapter twelve of this code, and the interest or other earnings on the moneys in the fund. The State Auditor shall administer the distribution of moneys of the fund to volunteer fire departments to help defray workers’ compensation insurance premium increases pursuant to said section. Balances in the fund at the end of any fiscal year shall not expire, but shall be expended for those purposes in ensuing fiscal years pursuant to appropriation of the Legislature.

(b) Beginning July 1, 2013, and in each fiscal year thereafter until June 30, 2020, the excess of the aggregate of amounts collected by the commissioner that are otherwise required under any provision of this code to be deposited into the Fire Protection Fund over the aggregate of those amounts deposited into the Fire Protection Fund during the fiscal year ending June 30, 2013, shall be deposited into the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund and expended solely for the
purposes established in section fourteen-a, article four, chapter twelve of this code.

(c) On or before August 1, 2013, the commissioner shall transfer $4 million from the Fire Marshal Fees Fund created under section twelve-b, article three, chapter twenty-nine of this code to the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund to be expended solely for the purposes established in section fourteen-a, article four, chapter twelve of this code until June 30, 2020.

(d) The State Fire Marshal, in consultation with the Insurance Commissioner, the State Auditor, the Secretary of Revenue and the Legislative Auditor, shall conduct a review of the needs of each volunteer or part volunteer fire company or volunteer fire department serving in the various counties of the state. On or before December 31, 2015, the State Fire Marshal shall submit to the Joint Committee on Government and Finance a comprehensive report of the review and the State Fire Marshal’s recommendations, substantiated by the findings of the review, of steps that may be taken to meet the needs of and sustain the volunteer and part volunteer fire companies and volunteer fire departments of this state, including, but not limited to, the following:

(1) An assessment of all current funding received by the volunteer fire companies and departments, and a further assessment of the funding necessary to provide the community protections required for the areas served by the volunteer fire companies and departments, the extent to which those needs are being met, the extent to which they are not being met, and recommendations of sources of funds to meet additional needs and the amounts needed, if any;

(2) An assessment of the cost of workers’ compensation coverage for the volunteer fire companies and departments and recommendations for any actions that may be undertaken by the volunteer fire companies and departments and others to reduce those costs;
(3) An assessment of the causes of any decline in recruitment and retention of volunteer firefighters and recommendations for improvements in this area, including any recommendations for incentives that have a demonstrated record of significant increases in recruitment and retention as well as recommendations of sources of funds to provide those incentives, if funds are necessary;

(4) An assessment of the level of financial accountability that should be required of volunteer fire companies and departments in order to provide the Legislature the information necessary to target future funding for their activities based upon the safety and fire protection needs of the various areas of the state;

(5) An assessment of the comparative levels of funding for volunteer fire companies and departments provided by counties, municipalities and other political subdivisions and the means by which that funding is provided, including identification of those which contribute little or no funding to the volunteer fire companies and departments within their jurisdictions, together with recommendations for increasing those levels of contributions;

(6) An assessment of the comparative levels of funding for volunteer fire companies and departments provided by their own efforts, and the means by which that funding is provided, including identification of those which provide little or no funding through their own efforts, together with recommendations for increasing these sources of funding;

(7) An assessment of the comparative economic and other benefits provided by the various volunteer fire companies and departments to their particular counties, municipalities and other political subdivisions, as well as to citizens of the local communities they serve;

(8) An assessment of the sustainability of the current model of providing fire and other protections to the citizens of rural communities through volunteer fire companies and
departments and an assessment of alternative models for providing those protections; and

(9) Other assessments and recommendations which the State Fire Marshal deems appropriate in the circumstances.

(e) Upon the conclusion of the fiscal year ending June 30, 2020, the provisions of this section and section fourteen-a, article four, chapter twelve of this code shall expire and be of no further force and effect and the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund shall be closed. Upon closure of the fund, from any balances therein remaining, the State Auditor shall first, to the extent available, transfer to the Fire Protection Fund an amount equal to the aggregate of funds deposited into the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund during the fiscal years ending June 30, 2014, 2015, 2016, 2017, 2018, 2019 and 2020 pursuant to subsection (b) of this section that would otherwise have been required to be deposited into the Fire Protection Fund, and any balances thereafter remaining in the Volunteer Fire Department Workers’ Compensation Premium Subsidy Fund shall expire to the General Revenue Fund of the state.
INDEX

Regular Session, 2017
January 11, 2017 – April 9, 2017

<table>
<thead>
<tr>
<th>ACTIONS AND SUITS</th>
<th>Ch.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actions for injuries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Liability of health care providers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>School athletic events</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exceptions</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Limitation on products liability actions</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Crimes against the peace</td>
<td>5</td>
<td>22</td>
</tr>
<tr>
<td>Medical professional liability</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>Definitions</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>Health care injuries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Limitations of actions</td>
<td>3</td>
<td>11</td>
</tr>
<tr>
<td>Shooting range</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Limitations on nuisance actions</td>
<td>5</td>
<td>22</td>
</tr>
<tr>
<td>Noise ordinances</td>
<td>5</td>
<td>22</td>
</tr>
<tr>
<td>Trial</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest on judgment or decree</td>
<td>4</td>
<td>19</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AGRICULTURE</th>
<th>Ch.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial feed law</td>
<td>8</td>
<td>19</td>
</tr>
<tr>
<td>Permits; registration</td>
<td>8</td>
<td>19</td>
</tr>
<tr>
<td>Special revenue fund</td>
<td>8</td>
<td>29</td>
</tr>
<tr>
<td>Increasing pet food registration fees</td>
<td>8</td>
<td>30</td>
</tr>
<tr>
<td>Industrial Hemp Development Act</td>
<td>6</td>
<td>25</td>
</tr>
<tr>
<td>Licensing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inspection and protection of agriculture</td>
<td>7</td>
<td>27</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ALL-TERRAIN VEHICLES</th>
<th>Ch.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>ATV and OHV Responsibility Act</td>
<td>9</td>
<td>34</td>
</tr>
<tr>
<td>Definitions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Off-road vehicles</td>
<td>9</td>
<td>32</td>
</tr>
<tr>
<td>Defining</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>APPROPRIATIONS</th>
<th>Ch.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education, State Board of</td>
<td>15</td>
<td>56</td>
</tr>
<tr>
<td>School lunch program</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Employers’ Mutual Insurance Company ........................................ 20 64
Expiring funds ........................................................................ 11 38
Finance, Division of ................................................................ 21 72
Fire Commission
   Fire Marshal fees .............................................................. 18 61
Health, Division of
   Birth-to-Three Fund.......................................................... 17 59
   Central Office .................................................................. 12 51
   Laboratory Services ......................................................... 17 59
Highways, Division of .......................................................... 13 53
Human Services, Division of .................................................... 12, 16 51, 57
   Health care provider tax ................................................... 17 60
Personnel, Division of ........................................................... 14 55
Public Defender Services ....................................................... 10 37
Racetrack video lottery ........................................................... 20 70
   Redirection of certain amounts from net terminal revenue... 20 70
WorkForce Investment Act ...................................................... 19 62

BROADBAND EXPANSION
Broadband Enhancement Council
   Broadband Enhancement Fund
      Creation of......................................................................... 22 94
      Definitions ........................................................................ 22 88
      Legislative findings and purpose ..................................... 22 87
      Members .......................................................................... 22 89
      Powers and duties ............................................................ 22 92
Cooperative associations
   Annual reports ..................................................................... 22 113
   Articles of incorporation ................................................... 22 103
      Amendments to ............................................................ 22 105
   Bylaws ............................................................................ 22 105
   Contract, breach of
      Remedies for .................................................................. 22 112
      Definitions ........................................................................ 22 100
      Directors .......................................................................... 22 107
      Removal of ....................................................................... 22 111
      Legislative findings and purpose ..................................... 22 101
      Marketing contract .......................................................... 22 112
   Meetings
      General and special ......................................................... 22 107
      Members .......................................................................... 22 103
      Officers ........................................................................... 22 109
      Removal of ....................................................................... 22 111
      Powers ............................................................................ 22 101
   Property
      Purchasing ........................................................................ 22 113
   Stock ............................................................................... 22 109
<table>
<thead>
<tr>
<th>Ch.</th>
<th>Art.</th>
<th>Sec.</th>
<th>Bill No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>2</td>
<td>10</td>
<td>SB608</td>
<td>122</td>
</tr>
<tr>
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<td>37</td>
<td>HB2364</td>
<td>556</td>
</tr>
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<td>11</td>
<td>HB2781</td>
<td>560</td>
</tr>
<tr>
<td>3</td>
<td>8</td>
<td>15*</td>
<td>HB2319</td>
<td>565</td>
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<td>3</td>
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</tr>
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<td>SB554</td>
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<td>2</td>
<td>SB523</td>
<td>1623</td>
</tr>
<tr>
<td>4</td>
<td>3</td>
<td>6*</td>
<td>HB2898</td>
<td>1269</td>
</tr>
<tr>
<td>4</td>
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<td>HB2839</td>
<td>1270</td>
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<td>1271</td>
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<td>1273</td>
</tr>
<tr>
<td>4</td>
<td>10</td>
<td>8</td>
<td>HB2839</td>
<td>1275</td>
</tr>
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<td>HB2839</td>
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</tr>
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<td>4</td>
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<td>HB2839</td>
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<td>4</td>
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<td>HB2935</td>
<td>780</td>
</tr>
</tbody>
</table>

*Indicates new chapter, article or section.
**CODE AMENDED – (Continued):**

<table>
<thead>
<tr>
<th>Ch.</th>
<th>Art.</th>
<th>Sec.</th>
<th>Bill No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>1</td>
<td>22</td>
<td>SB204</td>
<td>785</td>
</tr>
<tr>
<td>5</td>
<td>10</td>
<td>27b</td>
<td>HB2586</td>
<td>1957</td>
</tr>
<tr>
<td>5</td>
<td>10D</td>
<td>12*</td>
<td>SB321</td>
<td>1983</td>
</tr>
<tr>
<td>5</td>
<td>16</td>
<td>4</td>
<td>SB221</td>
<td>787</td>
</tr>
<tr>
<td>5</td>
<td>22</td>
<td>1</td>
<td>HB2897</td>
<td>792</td>
</tr>
<tr>
<td>5</td>
<td>26</td>
<td>1</td>
<td>HB2724</td>
<td>809</td>
</tr>
<tr>
<td>5</td>
<td>26</td>
<td>2</td>
<td>HB2724</td>
<td>812</td>
</tr>
<tr>
<td>5</td>
<td>26</td>
<td>3*</td>
<td>HB2724</td>
<td>812</td>
</tr>
<tr>
<td>5A</td>
<td>3</td>
<td>1</td>
<td>SB461</td>
<td>814</td>
</tr>
<tr>
<td>5A</td>
<td>3</td>
<td>3</td>
<td>SB461</td>
<td>816</td>
</tr>
<tr>
<td>5A</td>
<td>3</td>
<td>3a*</td>
<td>HB2759</td>
<td>1868</td>
</tr>
<tr>
<td>5A</td>
<td>3</td>
<td>3b*</td>
<td>SB686</td>
<td>819</td>
</tr>
<tr>
<td>5A</td>
<td>6</td>
<td>8</td>
<td>HB2759</td>
<td>1869</td>
</tr>
<tr>
<td>5A</td>
<td>8</td>
<td>23*</td>
<td>HB2797</td>
<td>820</td>
</tr>
<tr>
<td>5A</td>
<td>10</td>
<td>6</td>
<td>HB2759</td>
<td>1869</td>
</tr>
<tr>
<td>5B</td>
<td>1</td>
<td>2</td>
<td>SB535</td>
<td>2067</td>
</tr>
<tr>
<td>5B</td>
<td>2</td>
<td>9a*</td>
<td>HB2856</td>
<td>418</td>
</tr>
<tr>
<td>5B</td>
<td>2F</td>
<td>2</td>
<td>HB3037</td>
<td>821</td>
</tr>
<tr>
<td>5B</td>
<td>21*</td>
<td>1</td>
<td>SB535</td>
<td>2069</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2</td>
<td>SB535</td>
<td>2069</td>
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<td>SB535</td>
<td>2069</td>
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<td>4</td>
<td>SB535</td>
<td>2069</td>
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<tr>
<td></td>
<td></td>
<td>5</td>
<td>SB535</td>
<td>2074</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6</td>
<td>SB535</td>
<td>2075</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7</td>
<td>SB535</td>
<td>2076</td>
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<td></td>
<td>8</td>
<td>SB535</td>
<td>2078</td>
</tr>
<tr>
<td>5D</td>
<td>1</td>
<td>4</td>
<td>HB3037</td>
<td>825</td>
</tr>
<tr>
<td>5F</td>
<td>1</td>
<td>3a</td>
<td>HB2459</td>
<td>1660</td>
</tr>
<tr>
<td>5F</td>
<td>1</td>
<td>5*</td>
<td>HB2427</td>
<td>828</td>
</tr>
<tr>
<td>6</td>
<td>7</td>
<td>2a</td>
<td>HB2459</td>
<td>1662</td>
</tr>
<tr>
<td>6B</td>
<td>2</td>
<td>1</td>
<td>HB2001</td>
<td>687</td>
</tr>
<tr>
<td>6B</td>
<td>2</td>
<td>2</td>
<td>HB2001</td>
<td>691</td>
</tr>
<tr>
<td>6B</td>
<td>2</td>
<td>2a</td>
<td>HB2001</td>
<td>693</td>
</tr>
<tr>
<td>6B</td>
<td>2</td>
<td>3a</td>
<td>HB2001</td>
<td>695</td>
</tr>
<tr>
<td>6B</td>
<td>2</td>
<td>4</td>
<td>HB2001</td>
<td>696</td>
</tr>
<tr>
<td>6B</td>
<td>2</td>
<td>5</td>
<td>HB2001</td>
<td>706</td>
</tr>
<tr>
<td>6B</td>
<td>2</td>
<td>6</td>
<td>HB2001</td>
<td>725</td>
</tr>
<tr>
<td>6B</td>
<td>2</td>
<td>10</td>
<td>HB2001</td>
<td>727</td>
</tr>
<tr>
<td>6C</td>
<td>1</td>
<td>6</td>
<td>HB2006</td>
<td>1657</td>
</tr>
<tr>
<td>6D*</td>
<td>1</td>
<td>1</td>
<td>HB2001</td>
<td>729</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2</td>
<td>HB2001</td>
<td>730</td>
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<td></td>
<td>3</td>
<td>HB2001</td>
<td>730</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4</td>
<td>HB2001</td>
<td>731</td>
</tr>
<tr>
<td>7</td>
<td>1</td>
<td>16*</td>
<td>HB3022</td>
<td>1934</td>
</tr>
<tr>
<td>7</td>
<td>4</td>
<td>1</td>
<td>SB230</td>
<td>1882</td>
</tr>
<tr>
<td>7</td>
<td>11</td>
<td>5</td>
<td>HB2679</td>
<td>1441</td>
</tr>
<tr>
<td>7</td>
<td>14D</td>
<td>9b</td>
<td>HB2586</td>
<td>1960</td>
</tr>
</tbody>
</table>

*Indicates new chapter, article or section.*
<table>
<thead>
<tr>
<th>Ch.</th>
<th>Art.</th>
<th>Sec.</th>
<th>Bill No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>9</td>
<td>4*</td>
<td>HB3022</td>
<td>1935</td>
</tr>
<tr>
<td>8</td>
<td>12</td>
<td>13</td>
<td>SB631</td>
<td>1364</td>
</tr>
<tr>
<td>8</td>
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<td>16</td>
<td>SB631</td>
<td>1366</td>
</tr>
<tr>
<td>8</td>
<td>13</td>
<td>7</td>
<td>SB533</td>
<td>2035</td>
</tr>
<tr>
<td>8</td>
<td>16</td>
<td>5</td>
<td>HB2897</td>
<td>796</td>
</tr>
<tr>
<td>8</td>
<td>22</td>
<td>20</td>
<td>HB2603</td>
<td>1376</td>
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<td>SB392</td>
<td>1387</td>
</tr>
<tr>
<td>8</td>
<td>22A</td>
<td>11</td>
<td>HB2586</td>
<td>1963</td>
</tr>
<tr>
<td>8</td>
<td>22A</td>
<td>17</td>
<td>SB392</td>
<td>1396</td>
</tr>
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<td>8</td>
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<td>18</td>
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<td>1397</td>
</tr>
<tr>
<td>8</td>
<td>38</td>
<td>9</td>
<td>HB2709</td>
<td>1399</td>
</tr>
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<td>9</td>
<td>2</td>
<td>9a*</td>
<td>SB634</td>
<td>1082</td>
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<tr>
<td>9</td>
<td>4C</td>
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<td>11</td>
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**CODE REPEALED (STATUTORY)**

All-Inclusive Care for the Elderly, “PACE” (§16-2K-1 through 2) .................. 30 214
Health Benefit Exchange Act (§33-16G-1 through 9) .................................. 35 218
Korea and Vietnam veterans
   Exposed to certain chemical defoliants
      Assistance to (§16-28-1 through 10) .................................. 33 217
State Commissioner of Public Institutions
   Insurance of state buildings (§25-1-10) ................................. 34 217
State hemophilia program (§16-24-1 through 7) .............................. 31 215
Tuberculosis, high blood pressure and diabetes
   Concerning detection of (§16-25-1 through 4) .................... 32 216

**CONSTITUTIONAL AMENDMENT**

Roads to Prosperity Amendment of 2017 ................................................. 2129

**CONSUMER CREDIT**

Civil liability and criminal penalties
   Assertion of rights ................................................................. 36 228
   Limitation of actions ......................................................... 36 225
Rights of parties
   Effect of violations ............................................................... 36 225
   Right to cure ................................................................. 36 228
Consumer credit protection
   Balloon payments ................................................................. 36 220
   Default charges
      Limitation on ................................................................. 37 232
Definitions ............................................................................ 36 221
Unfair or unconscionable means ........................................... 36 222
Precomputed consumer credit sales
Delinquency charges ............................................................. 37 236

CONTROLLED SUBSTANCES
Controlled Substances Monitoring Program
Confidentiality ........................................................................ 43 313
Database .............................................................................. 43 311
Practitioner access to .......................................................... 43 320
Required information ............................................................. 43 311
Fentanyl
Unlawful production, manufacture or possession of
Prohibiting ............................................................................ 38 266
Methamphetamine manufacturing
Exposure of children to
Penalties .................................................................................. 44 323
Multi-State Real-Time Tracking System .......................................... 45 325
Offenses and penalties ............................................................ 41 306
Standards and schedules
Classifying additional drugs .................................................. 39 267
Transportation into state
Increasing penalties ............................................................... 40 302
Uniform Controlled Substance Act
Commit violations of
Conspiracy ................................................................................ 41 306
Drug delivery resulting in death
Penalties .................................................................................. 42 309

CORPORATIONS
Directors and officers
Standards of liability ............................................................. 46 326

COURTS
Circuit Courts
Jurisdiction ............................................................................... 48 330
Grand juries
Material subpoenaed by ........................................................ 49 332
Supreme Court of Appeals
Court Advanced Technology Subscription Fund
Creating .................................................................................. 47 329

CRIMES AND THEIR PUNISHMENT
Child abuse
Death of child by parent, guardian or custodian ............... 55 351
Criminal penalties ............................................................... 55 351
Emmaleigh’s law ................................................................. 55 351
Correctional employees
Defining .................................................................................. 51 340
Criminal Offense Reduction Program
Criminal offense reduction ................................................... 56 356
Definitions ............................................................................ 56 354
Employer protections ............................................................ 56 362
Legislative intent .................................................................. 56 354
Petition for reduction ............................................................ 56 356
Domestic violence
Criminal acts ......................................................................... 50 336
Kidnapping
Penalties ................................................................................ 52 343
Malicious or unlawful assault
Penalties ................................................................................ 50 334
Money laundering
Definitions ............................................................................ 57 364
Forfeiture; disgorgement ....................................................... 57 367
Through financial transactions .............................................. 57 366
Private intimate images
Nonconsensual disclosure of
Penalties for ........................................................................ 54 349
Shoplifting
Penalties ................................................................................ 53 346

CRIMINAL PROCEDURE
Adult Drug Court Participation Fund
Created.................................................................................. 63 390
Execution of sentences; stays
Commitment paper ............................................................... 59 373
Home Incarceration Act
Violation of order ................................................................. 60 375
Penalties.............................................................................. 60 375
Parole hearing
Notification of....................................................................... 62 387
Probation and parole
Powers and duties of board................................................... 62 378
Probation period ................................................................. 61 377
Wiretapping and Electronic Surveillance Act
Definitions............................................................................ 58 368

DOMESTIC RELATIONS
Guardianship and Conservatorship Act
Petition for access to persons in guardianship ...................... 64 394
Mentally ill persons
Confidential information....................................................... 64 392
Prevention and treatment of
Proceedings in magistrate court........................................... 65 397
Uniform Deployed Parents Custody and Visitation Act
Change of address
Duty to notify......................................................................... 66 406
Custodial responsibility during deployment
Form of agreement............................................................... 66 407
Definitions ................................................................. 66 401
Deploying parent
   Notification required ........................................ 66 405
Jurisdiction ................................................................. 66 404
Modification of agreement ........................................... 66 409
Parent’s military service
   General consideration of ........................................ 66 406
Remedies for noncompliance ........................................ 66 404
Short title ................................................................. 66 401

ECONOMIC DEVELOPMENT
Cardinal Passenger Train Service
   Improving ................................................................. 67 418

EDUCATION
Accessibility and Equity in Public Education Enhancement Act
   Compliance with existing state law ......................... 77 514
   County board policy adoption ............................... 77 513
   Definitions ............................................................... 77 512
   Legislative findings ............................................... 77 511
   Report ................................................................. 77 516
   Short title ............................................................... 77 511
Compulsory school attendance
   Attendance director
      Duties of .......................................................... 78 517
   Commencement and termination of ......................... 74 499
County board of education
   Authority generally ............................................... 72 453
   County Superintendent’s Advisory Council
      Purpose, reports ................................................. 72 462
   Early childhood education programs ....................... 74 491
   Epinephrine auto-injectors
      Maintenance and use of ......................................... 75 502
   Kindergarten programs ......................................... 74 489
   Opioid antagonist
      Maintenance and use of ........................................ 76 507
Community-based pilot demonstration project
   Creating ................................................................. 81 547
Courses of instruction required
   Celebrate freedom week ....................................... 70 429
Dangerous weapons
   Premises of educational facilities
      Possession on .................................................... 82 548
Drug prevention and violence reduction
   Programs ............................................................... 69 424
High quality educational programs
   Medicaid-eligible children ..................................... 68 421
   School report cards .............................................. 73 485
   Standards, assessment and accountability ................ 72 436
Local School Involvement
  Faculty senates established ................................................... 72 477
Medicaid-eligible children
  Medicaid reimbursement
    Not required .............................................................. 68 421
Public school support
  Foundation allowances
    Instructional programs .............................................. 79 534
    Professional educators .............................................. 79 524
    Service personnel ...................................................... 79 524
    Transportation cost ................................................... 79 529
Regional Education Service Agencies
  Abolishment and transition of............................................... 72 435
School building authority
  Emergency facility and equipment repair ................................ 79 538
  Financially distressed counties
    Emergency facility repair or replacement fund ............ 79 538
School personnel
  Duty-free lunch and daily planning period ....................... 72 483
Secondary Athletics Commission
  Emergency action plans for athletics .................................. 71 431

ELECTIONS
Contributions
  Disclosure of......................................................................... 85 565
Polls
  Electioneering defined .......................................................... 83 558
  Restrictions on presence and conduct ................................... 83 556
  Unlawful acts ........................................................................ 83 558
Registration of voters
  In conjunction with driver licensing ..................................... 84 560

ENVIRONMENTAL RESOURCES
Aboveground Storage Tank Act
  Definitions ............................................................................ 89 638
Coal Mine Health and Safety, Board of
  Continued ............................................................................. 86 608
  Membership ................................................................. 86 608
  Powers and duties ................................................................. 86 612
    Additional ................................................................ 86 621
  Revision of rules ............................................................... 86 631
Diesel-powered equipment
  Existing state rules
    Revising .................................................................... 86 607
Mine Inspectors’ Examining Board
  Abolished .............................................................................. 86 625
Mine Safety Technology Task Force
  Abolished .............................................................................. 86 628
Miner Training, Education and Certification, Board of
Abolished .............................................................................. 86 619
Definitions ............................................................................ 86 620
Miners’ Health, Safety and Training
Definitions ............................................................................ 86 597
Offices continued .................................................................. 86 605
Natural Gas Horizontal Well Control Act
Reclamation requirements .................................................... 87 632
Oil and Gas, Office of
Methods of plugging well ..................................................... 86 583
Surface Coal Mining and Reclamation Act
Bonds .................................................................................. 86 568
Release of ........................................................................... 86 579
Preblast survey requirements ................................................ 86 575
Underground mines
First-aid equipment ............................................................... 86 605
Foreman-fire boss
Continuing education .......................................................... 86 623
Water Pollution Control Act
Overlapping mixing zones .................................................... 88 634
Water quality standards ........................................................ 86 594

ESTATES, PROPERTY AND TRUSTS
Estates
Descent and distribution
Homicide bars acquisition of estate .............................. 90 648
Survivorship
When preserved ........................................................ 90 646
Fiduciaries
Nonresident
Appointment of ............................................................... 93 680
Office of fiduciary supervisor
Powers .............................................................................. 93 678
Qualifications ............................................................... 93 678
Personal representatives
Bond and oath ................................................................. 93 672
Executor .............................................................................. 93 672
Notice .............................................................................. 93 674
Trust
Charitable purposes .......................................................... 92 661
Modification or termination ................................................ 92 662
Revocable
Limitation on action contesting ........................................ 92 667
Spendthrift and discretionary
Definitions
Trustee
Distribution upon termination ............................................ 92 670
Duties and powers ............................................................. 92 668
Uniform Trust Code
Creditor’s claims ............................................................... 92 662
Definitions ............................................................................ 92  657
Distribution ........................................................................... 92  670
Insurable interest ................................................................... 92  661
Vendor’s and trust deed liens
   Substitution of trustees securing a debt ................................. 92  656
West Virginia Real Estate Timesharing Act
   Liens ........................................................................ 91  650
   Trustee’s sale .................................................................. 91  652

ETHICS
West Virginia Ethics Commission
   Relating generally to ............................................................. 94  685

FEES
Circuit Court clerk
   Fees to be charged by ........................................................... 96  746
County Commission clerk
   Fees to be charged by ........................................................... 95  740
Emergency Response and Community Right-to-Know Act
   Commission
      Powers and duties ............................................................ 97  751
Fair and equitable property valuation
   Commission powers and duties ............................................ 95  735
   County assessors
      Duties ........................................................................ 95  737
      Definitions .................................................................... 95  733
Family courts
   Rules of practice and procedure ............................................ 98  763
Secretary of State
   Fees to be charged by ........................................................... 99  766
   Voter registration lists and election data
      Purchase of ................................................................... 99  777
State Police Forensic Laboratory Fund ............................................. 96  745
Teen Court Program ................................................................ 98  760
West Virginia Patient Injury Compensation Fund
   Additional funding ................................................................ 98  754

FLOOD PROTECTION
Joint Legislative Committee on Flooding
   Establishing ........................................................................ 100  780
State Resiliency and Flood Protection Plan Act
   Legislative findings ............................................................ 100  781
   Reporting ........................................................................ 100  784
   Short title ........................................................................ 100  781
   State Resiliency Office ....................................................... 100  781
      Authority of .................................................................. 100  783

GOVERNMENT AGENCIES AND BOARDS
Alcohol and Drug-free Workplace Act
   Employee drug-free workplace policy
      Required ........................................................................ 103  802
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<td>Certain facilities providing</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Exemption of</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Purchasing requirements</td>
<td>State Police</td>
<td>105</td>
<td>815</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Exempting</td>
<td>105</td>
<td>815</td>
</tr>
<tr>
<td></td>
<td>Sanitary Board</td>
<td>Powers, contracts, employees, compensation</td>
<td>103</td>
<td>800</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sanitary districts for sewage disposal</td>
<td>103</td>
<td>798</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Letting contracts</td>
<td>103</td>
<td>798</td>
</tr>
</tbody>
</table>
Secretary of State
Service of process ...................................................... 121 904
State athletic commission
Relating to ................................................................. 116 887
Tax Commissioner
Background checks ..................................................... 110 830
Transportation of coal
Issuance of permits .................................................... 113 846
Vacancies in offices
Appointment by Governor ........................................... 101 785

HIGHER EDUCATION
Governance
Generally ................................................................. 122 936
Health Sciences Service Program ................................. 125 1078
Expansion ............................................................... 125 1080
Higher Education Policy Commission
Classification and compensation ............................... 123 1057
Flexibility to adopt rules .............................................. 123 1069
Legislative intent and purpose .................................... 123 1050
Legislative rules ......................................................... 124 1072
Personnel ................................................................. 123 1043

HUMAN SERVICES
Health and Human Resources, Department of
Marshall University
Exempting from purchasing requirements .............. 126 1082
Medicaid program compact ...................................... 127 1083
Medicaid reimbursement .......................................... 128 1084
West Virginia School of Osteopathic Medicine
Exempting from purchasing requirements .............. 126 1082
West Virginia University
Exempting from purchasing requirements .............. 126 1082

HUMAN TRAFFICKING
Child abuse and neglect
Definitions related to .................................................. 129 1096
Justice and Community Services, Division of
Established, director .................................................. 129 1089
Human trafficking ...................................................... 129 1102
Debt bondage
Penalties ................................................................. 129 1106
Definitions .............................................................. 129 1102
Forced labor
Penalties ................................................................. 129 1106
Immunity for minor victim ........................................ 129 1110
Petition to vacate and expunge conviction ................. 129 1110
Sex trafficking
Immunity for minors ................................................. 129 1110
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual servitude</td>
<td></td>
<td>129 1007</td>
</tr>
<tr>
<td>Patronizing victim of...</td>
<td></td>
<td>129 1107</td>
</tr>
<tr>
<td>Penalties</td>
<td></td>
<td>129 1106</td>
</tr>
<tr>
<td>Sex Offender Registration Act</td>
<td></td>
<td>129 1090</td>
</tr>
<tr>
<td>Registration</td>
<td></td>
<td>129 1090</td>
</tr>
<tr>
<td>Wiretapping and electronic surveillance act</td>
<td></td>
<td>129 1111</td>
</tr>
<tr>
<td>INSURANCE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Guaranty Association Act, West Virginia</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commissioner</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Duties and powers</td>
<td>132</td>
<td>1143</td>
</tr>
<tr>
<td>Construction</td>
<td>132</td>
<td>1131</td>
</tr>
<tr>
<td>Definitions</td>
<td>132</td>
<td>1131</td>
</tr>
<tr>
<td>Plan of operations</td>
<td>132</td>
<td>1142</td>
</tr>
<tr>
<td>Powers and duties</td>
<td>132</td>
<td>1136</td>
</tr>
<tr>
<td>Purpose</td>
<td>132</td>
<td>1130</td>
</tr>
<tr>
<td>Scope</td>
<td>132</td>
<td>1130</td>
</tr>
<tr>
<td>Health benefit plans</td>
<td>131</td>
<td>1115</td>
</tr>
<tr>
<td>Step therapy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical records and billing records</td>
<td>130</td>
<td>1113</td>
</tr>
<tr>
<td>Privacy; rules</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pharmacy Audit Integrity Act</td>
<td>134</td>
<td>1161</td>
</tr>
<tr>
<td>Definitions</td>
<td>134</td>
<td>1168</td>
</tr>
<tr>
<td>Pharmacy audits</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appeal process</td>
<td>134</td>
<td>1168</td>
</tr>
<tr>
<td>Procedures for conducting</td>
<td>134</td>
<td>1164</td>
</tr>
<tr>
<td>Limitations</td>
<td>134</td>
<td>1168</td>
</tr>
<tr>
<td>Scope</td>
<td>134</td>
<td>1161</td>
</tr>
<tr>
<td>Risk Management and Own Risk and Solvency Assessment Act</td>
<td>133</td>
<td>1150</td>
</tr>
<tr>
<td>Relating to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LABOR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amusement rides and amusement attractions</td>
<td>135</td>
<td>1181</td>
</tr>
<tr>
<td>Inspection and fees</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bedding and upholstery businesses</td>
<td>135</td>
<td>1181</td>
</tr>
<tr>
<td>Sterilization; permits</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial weighing and measuring devices</td>
<td>135</td>
<td>1181</td>
</tr>
<tr>
<td>Requirements for registration of service</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contractor Licensing Act, West Virginia</td>
<td>135</td>
<td>1183</td>
</tr>
<tr>
<td>Fees</td>
<td>135</td>
<td>1183</td>
</tr>
<tr>
<td>Recordkeeping</td>
<td>135</td>
<td>1183</td>
</tr>
<tr>
<td>Crane Operator Certification Fund</td>
<td>135</td>
<td>1174</td>
</tr>
<tr>
<td>Disposition of funds</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elevator safety</td>
<td>135</td>
<td>1174</td>
</tr>
<tr>
<td>Disposition of fees</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legislative rules</td>
<td>135</td>
<td>1174</td>
</tr>
<tr>
<td>HVAC Fund</td>
<td>135</td>
<td>1186</td>
</tr>
<tr>
<td>Disposition of fees</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufactured housing construction and safety standards</td>
<td>135</td>
<td>1180</td>
</tr>
<tr>
<td>License required</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Plumbing Work Fund
Disposition of fees .............................................................. 135 1185
Psychophysiological detection of deception examiners .......... 135 1177
Safer Workplace Act, West Virginia
Definitions ........................................................................ 136 1194
Public policy; applicability ............................................... 136 1195
Short title ............................................................................ 136 1194
Steam boilers
Regulation of ...................................................................... 135 1172
Wage payment and collection
Employer’s bond for wages and benefits ............................ 137 1205
Workplace Freedom Act, West Virginia
Applicability; severability ................................................... 138 1212
Definitions .......................................................................... 138 1212
Zipline and Canopy Tour Responsibility Act
Inspection and fees ............................................................. 135 1185

LEGISLATIVE RULES
Promulgation of
Agriculture, Commissioner of ........................................... 144 1241
Architects, Board of ............................................................ 144 1244
Athletic Commission ......................................................... 144 1244
Auditor’s Office .................................................................. 144 1249
Banking Commissioner........................................................ 143 1237
Barbers and Cosmetologists, Board of .............................. 144 1250
Coal Mine Health and Safety, Board of ............................. 145 1266
Dangerous Wild Animal Board ........................................... 144 1254
Dentistry, Board of ................................................................ 144 1254
Environmental Protection, Department of ......................... 140 1216
Ethics Commission ............................................................. 139 1214
Examiners for Registered Professional Nurses, Board of .. 144 1259
Examiners in Counseling, Board of ................................... 144 1252
Governor’s Committee on Crime,
Delinquency and Correction ............................................. 142 1224
Health and Human Resources, Department of ................. 141 1220
Health Care Authority ....................................................... 141 1219
Insurance Commissioner .................................................... 143 1229
Justice and Community Services, Division of .................. 142 1226
Lottery Commission ............................................................ 143 1233
Medicine, Board of ................................................................ 144 1255
Natural Resources, Division of .......................................... 145 1265
Office of Miners’ Health, Safety and Training ................... 145 1266
Optometry, Board of .......................................................... 144 1256
Osteopathic Medicine, Board of ...................................... 144 1257
Pharmacy, Board of ............................................................ 144 1257
Physical Therapy., Board of .............................................. 144 1259
Public Service Commission ................................................. 144 1259
Racing Commission ............................................................ 143 1229
Risk and Insurance Management, Board of ...................... 139 1214
Secretary of State ............................................................... 144 1261
Social Work Examiners, Board of .............................................. 144 1261
Speech-Language Pathology and Audiology, Board of ...... 144 1261
State Board of Sanitarians...................................................... 144 1260
State Fire Marshal.................................................................. 142 1225
Tax Division ........................................................................... 143 1234
Treasurer’s Office.................................................................... 144 1262
Veterinary Medicine, Board of ............................................ 144 1263

LEGISLATURE
Employees
Background checks
Authorizing............................................................. 147 1269
False swearing in a legislative proceeding
Penalty .............................................................................. 146 1267
Performance Review Act
Relating to .............................................................. 148 1270

LIENS
Judgment debtors
Suggestions of salary and wages of ............................. 149 1279

LITTERING
Unlawful disposal of litter
Civil and criminal penalty............................................... 150 1283

MANUFACTURED HOMES
Certificates of title
Reissuance of
Procedure........................................................................... 151 1289

MOTOR VEHICLES
Abandoned or junked motor vehicles
Definitions.......................................................................... 152 1292
Notification to owner and lienholder ................................. 152 1295
Autocycles
Motorcycle examination
Creating exemption............................................................. 155 1355
Pneumatic tires
Registration fees .................................................................. 154 1351
Registration plates ............................................................... 153 1312
Friends of Coal ................................................................. 153 1340
In God We Trust............................................................... 153 1326

MUNICIPALITIES
General and specific powers of municipalities .................... 156 1364
Violations of building code................................................ 156 1366
Police officers and firefighter’s retirement system
Awards and benefits for disability ..................................... 159 1396
Definitions ........................................................................... 159 1388
Retirement benefits ................................................................. 157 1376
Correction of errors; underpayments; overpayments .... 158 1384
Policemen’s and firemen’s pension and relief funds....... 157 1379
Special district excise tax
   South Charleston
      Authorization to levy .................................................. 160 1399
Utilities
   Operation and regulation of .......................................... 161 1402
West Virginia Land Reuse Agency Authorization Act
   Acquisition of property ................................................. 162 1437
   Definitions .................................................................... 162 1436
   Relating to ................................................................. 162 1436
NATURAL RESOURCES
   County parks and recreation commissions
      Firearms and hunting .................................................. 163 1444
      General powers of commission .................................. 163 1441
   Division contracts ....................................................... 164 1450
      Prickett’s Fort
         Exemptions for repairs to facilities ......................... 164 1457
   Natural resources police officers
      Salaries ..................................................................... 167 1468
      Sunday hunting ........................................................ 166 1466
   Wildlife
      Possession of ............................................................ 165 1459
      Sale, transportation of ............................................. 165 1460
OUTSIDE SPEAKER SYSTEMS
   Nonintoxicating beer licensees
      Use of speakers
         Allowing ................................................................. 168 1472
PROFESSIONS AND OCCUPATIONS
   Barbers and Cosmetologists, Board of
      Professional license requirements ............................. 179 1606
      Student registration .................................................. 180 1609
      Training locations .................................................... 181 1611
   Chiropractors
      Volunteer license
         Civil immunity .................................................... 171 1514
   Direct primary care practice
      Definitions ............................................................... 175 1569
      Prohibited and authorized practices ....................... 175 1570
   Licensed professional counselors
      Marriage and family therapists
         Licensure .................................................................. 182 1611
   Nurse licensure compact
      Finding and declaration of purpose ......................... 178 1580
   Optometrists
      Volunteer license
         Civil immunity .................................................... 171 1509
Osteopathic physicians and surgeons
  Offenses and penalties ................................................ 174 1567
  Refusal, suspension or revocation of license ............ 172 1548
  Telemedicine
    Requirements .......................................................... 173 1560
  Volunteer license
    Civil immunity ........................................................ 171 1512
  West Virginia Board of Medicine
    Combining staff functions with ......................... 174 1566
Pharmacists
  Rule-making authority ............................................ 176 1572
  Trainee qualifications ............................................ 177 1578
  Volunteer license
    Civil immunity ........................................................ 171 1496
Physical therapists
  Volunteer license
    Civil immunity ........................................................ 171 1517
Physician Assistants Practice Act
  Volunteer license .................................................. 171 1490
Psychologists
  Volunteer license
    Civil immunity ........................................................ 171 1520
Registered professional nurses
  Volunteer licenses
    Civil immunity ........................................................ 171 1499
State boards of examination or registration
  Charitable functions
    Exemption from licensure .................................... 171 1486
  Complaint proceedings
    Time standards for disposition of ....................... 169 1480
    Continuing education .......................................... 170 1482
Telemedicine
  Requirements .......................................................... 173 1554
  Volunteer license
    Immunity ............................................................... 171 1487
West Virginia Dental Practice Act
  Volunteer license
    Civil immunity ........................................................ 171 1493
West Virginia Medical Practice Act ............................. 171 1487
  Biennial renewal of license to practice
    Continuing education ............................................ 172 1528
  Denial for conviction of felony offense .................... 172 1528
West Virginia Occupational Therapy Practice Act
  Volunteer license
    Civil immunity ........................................................ 171 1523

PUBLIC EMPLOYEES
Health care and the certificate of need process
  Relating to regulation of ........................................ 185 1657
State employees
  Biweekly pay cycle............................................................. 183 1621
Whistle-blower law
  Penalties for violating
    Increasing................................................................ 184 1657

PUBLIC HEALTH
Abortion
  Parental notification
    Unemancipated minors ........................................... 186 1739
Coalition for Responsible Pain Management
  Creation of.......................................................... 193 1773
  Findings and purpose........................................... 193 1772
  Members ........................................................... 193 1773
  Powers and duties ................................................ 193 1774
  Sunset ................................................................. 193 1776
Emergency Volunteer Health Practitioners Act
  Administrative sanctions........................................... 197 1860
  Applicability .......................................................... 197 1857
  Credentialing and privileging ................................ 197 1860
  Definitions ........................................................... 197 1854
  Limitation of liability ............................................... 197 1863
  Registration system ................................................ 197 1858
  Regulation during emergency .................................... 197 1857
  Relation to other laws ................................................ 197 1862
  Rulemaking ............................................................ 198 1864
  Short title .............................................................. 197 1854
Influenza immunizations
  Upon hospital discharge................................................ 187 1747
Legislative Coalition for Diabetes Management
  Creating ................................................................. 190 1761
  Members ............................................................... 190 1761
  Powers and duties ................................................... 190 1761
  Sunset ................................................................. 190 1764
Medication-assisted Treatment Programs Licensing Act
  Telehealth
    Clarifying definition of ........................................... 189 1759
Regulation of health care................................................ 185 1658
  Certificate of need ................................................... 185 1670
  Code repealed .......................................................... 185 1657
  Exemptions from certificate of need ......................... 185 1684
  Healthcare-associated infection reporting .................. 185 1698
Health Care Authority ................................................... 185 1701
  Executive Director
    Salary ................................................................. 185 1664
Health Care Authority Provider Medicaid Enhancement Act........................................... 185 1665
  Health care provider taxes ....................................... 185 1668
Health care records
  Confidentiality ........................................................ 196 1851
Copies provided to patients................................................. 191 1765
Reasonable expense to be reimbursed..................... 191 1767
Health information network................................................ 185 1725
Marketing and rate practices.............................................. 185 1729
Nurse Overtime and Patient Safety Act.............................. 185 1728
Ryan Brown Addiction Prevention and Recovery Fund
Establishing ........................................................................ 194 1778
Substance abuse treatment facilities
Ensuring additional beds..................................................... 194 1777
Ryan Brown Addiction Prevention and Recovery Fund
Establishing........................................................................ 194 1778
Tanning facilities
Operation standards
Violations and penalties................................................. 192 1770
West Virginia Drug Control Policy Act
Office of Drug Control Policy........................................... 188 1749
Promulgation of rules....................................................... 188 1754
Reporting system requirements........................................ 188 1752
Required information....................................................... 188 1753
Short title ............................................................................ 188 1749
West Virginia Medical Cannabis Act
Academic clinical research centers
Clinical registrants............................................................ 195 1844
Definitions .......................................................................... 195 1844
Research study................................................................. 195 1845
Administration
Emergency rules............................................................... 195 1828
Evaluation................................................................. 195 1827
Law-enforcement notification......................................... 195 1827
Reports ........................................................................... 195 1827
Definitions ........................................................................... 195 1783
Dispensaries
Facility requirements......................................................... 195 1824
Patients and caregivers, dispensing to............................ 195 1821
Posting ............................................................................ 195 1825
Effective date................................................................. 195 1850
Medical Cannabis Advisory Board
Established ......................................................................... 195 1828
Rules ................................................................................. 195 1832
Medical cannabis controls
County prohibitions........................................................... 195 1821
Electronic tracking............................................................ 195 1817
Grower/processors............................................................ 195 1819
Laboratory..................................................................... 195 1820
Prices ............................................................................. 195 1820
Storage and transportation............................................. 195 1819
Medical cannabis organizations
Authorized ................................................................. 195 1807
Permits ............................................................................ 195 1807
Application and issuance................................................. 195 1811
Fees................................................................................. 195 1812
Granting of .................................................. 195 1809
Limitations .................................................. 195 1815
Renewals .................................................... 195 1814
Suspension or revocation ............................ 195 1814
Terms .......................................................... 195 1813
Medical Cannabis Program
Confidentiality ........................................................ 195 1794
Establishment of ..................................................... 195 1788
Lawful use of medical cannabis .............................. 195 1791
Unlawful use of medical cannabis ...................... 195 1793
Miscellaneous provisions
Applicability .......................................................... 195 1794
Conflict ................................................................. 195 1788
Daycare centers ....................................................... 195 1791
Financial and employment interests ...................... 195 1793
Insurers ................................................................. 195 1794
Notice to bureau ...................................................... 195 1795
Protections for patients and caregivers .................... 195 1796
Schools ................................................................. 195 1797
Zoning ................................................................... 195 1798
Patients
Caregivers ............................................................... 195 1802
Authorization and limitations ...................... 195 1799
Identification cards ................................................. 195 1800
Contents ...................................................... 195 1800
Suspension .................................................. 195 1800
Minors ..................................................................... 195 1801
Notice...................................................................... 195 1802
Prohibitions ............................................................. 195 1803
Special conditions ................................................... 195 1803
Verification ............................................................. 195 1803
Practitioners
Certifications
Form............................................................ 195 1799
Issuance of .................................................. 195 1799
Duration ............................................................. 195 1800
Registration ............................................................. 195 1801
Restrictions ............................................................. 195 1801
Research program
Administration ........................................................ 195 1840
Approval ................................................................. 195 1840
Definitions ............................................................. 195 1841
Establishment of ..................................................... 195 1842
Nonentitlement ....................................................... 195 1843
Requirements .......................................................... 195 1844
Restrictions ............................................................. 195 1844
Rules ................................................................. 195 1845
Short title .............................................................. 195 1783
PUBLIC LIBRARIES
Library Commission
Library Survey
Status report
Ten-year plan................................................................. 198 1864

PUBLIC SAFETY
Administration, Department of
Office of Technology
Exemptions ............................................................. 199 1869
Purchasing Division
Additional exemptions ............................................ 199 1868
Real Estate Division
Wireless communication towers
Long-term leases.................................................. 199 1869

Civil Air Patrol
Adjutant General
Authority of ........................................................... 202 1893
Definitions .............................................................. 202 1892
Expenses .................................................................. 202 1893
Leave ...................................................................... 202 1895
Legislative findings and intent..................................... 202 1891
Members
Accrued benefits not lost ........................................ 202 1896
Employers to provide leave.................................... 202 1895
Nondiscrimination by employers.......................... 202 1894

Fire Prevention and Control Act
Volunteer fire departments ........................................ 208 1920

Prosecuting attorneys
Duties of ............................................................... 200 1882
Arrest powers............................................................ 200 1883
Firearms ................................................................... 200 1883

Protective Services, Division of
Transfer of officers ................................................... 206 1914

Silver Alert Plan
Relating to ............................................................. 207 1915

State Police
Criminal Identification Bureau .......................... 204 1904
Facilities owned by
Fees for the use of................................................ 203 1897
Relating generally to.............................................. 204 1901

State Police Academy
Operation of post exchange .................................... 205 1909

Statewide Interoperable Radio Network Act
Coordinator
Appointment of...................................................... 199 1873
Definitions .............................................................. 199 1871
Executive committee .............................................. 199 1874
Duties....................................................................... 199 1876
Maintenance and operations ............................... 199 1877
Minimum distributions ....................................................... 216 1971
Police Officers and Firefighters Retirement System
Minimum distributions ....................................................... 216 1963
Public Employees Retirement Act
Minimum distributions ....................................................... 216 1957
Retirement System for Judges
Minimum distributions ....................................................... 216 1979
State Police
Minimum distributions ....................................................... 216 1965
State Police Retirement System
Minimum distributions ....................................................... 216 1968
State Teachers Retirement System
Minimum distributions ....................................................... 216 1974
Teachers’ Defined Contribution System
Minimum distributions ....................................................... 216 1976

ROADS AND HIGHWAYS
Construction financing
   Surface transportation improvements
   Increasing grant notes ............................................. 219 1986
Highway Design-Build Program
   Highway construction contracts
   Changing amounts that may be expended ............... 218 1984
Public-Private Transportation Facilities Act
   Reducing cost threshold limitation
   Extension ................................................................ 220 1987

ROADS TO PROSPERITY AMENDMENT OF 2017
Constitutional amendment ............................................ 2129

SCHOOL PERSONNEL
Employment of retired teachers and substitutes
   Areas of critical need and shortage ..................... 221 1997
Sexual misconduct
   Aiding and abetting prohibited ......................... 224 2013
Teacher certification
   Grounds for revocation of ................................ 223 2010
   Spouse member of Armed Forces .................... 222 2008

SECURITIES
Registration of broker-dealers and agents
   Notice filing procedure
   Fees ........................................................................ 225 2015

STATEWIDE INDEPENDENT LIVING COUNCIL
West Virginia Independent Living Act
   Statewide council
   Required changes ................................................... 226 2025

TAXATION
Construction trades
   Tax credits for apprenticeship training .............. 231 2048
Corporation net income tax
Updating terms ................................................................. 236 2061
Estate Tax
  Discharge of nonresident decedent’s real property .......... 230 2046
Excise tax
  Transferring real property
    Increasing ................................................................ 235 2059
Health care provider taxes
  Acute care hospitals
    Increase of rate .......................................................... 237 2063
Heavy equipment rental inventory
  Collection of fees on .................................................... 228 2042
Licenses
  Winery and farm winery
    Manufacture and sell .............................................. 227 2039
Personal income tax
  Updating terms ............................................................ 234 2057
Special aircraft property
  Defining ........................................................................ 229 2046
Streamlined Sales and Use Tax Agreement
  Incorporating changes to ................................................ 233 2055
Tax on purchases of intoxicating liquors and wine
  Original sealed package ............................................ 227 2035
  Outside corporate limits of municipality ...................... 227 2037
West Virginia Farm-To-Food Bank Tax Credit
  Creation of .................................................................. 232 2051

TOURISM
Licenses to private clubs
  Definitions ...................................................................... 239 2080
  Fees ............................................................................. 239 2084
  Unlawful admission of children .................................... 239 2085
West Virginia Tourism Act of 2017
  Creation of .................................................................. 238 2069

TRAFFIC REGULATIONS
Commercial driver’s license
  Disqualification .......................................................... 244 2097
Driving under the influence
  Equipment
    Motor vehicle lighting
      When required ......................................................... 241 2089
  License suspended or revoked
    Enhanced penalties ................................................... 240 2086
Size, weight and load
  Permits for excess .................................................... 243 2094
  Special load limits
    Digger or derrick line truck ...................................... 242 2092

UNEMPLOYMENT COMPENSATION
Unemployment benefits
  Disqualification for ................................................... 245 2120
Unemployment compensation fund
First Extraordinary Session, 2017
May 4, 2017 – June 26, 2017

<table>
<thead>
<tr>
<th>APPROPRIATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Budget Bill ................................................................. 1 2133</td>
</tr>
<tr>
<td>Index to, by accounts ......................................................... 1 2138</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CODE AMENDED</th>
</tr>
</thead>
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<tr>
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<th>Art.</th>
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<th>Bill No.</th>
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<td>SB1003</td>
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<td>8</td>
<td>SB1014</td>
<td>2356</td>
</tr>
</tbody>
</table>

LIENS
Tax Procedures and Administration Act
Liens ................................................................. 2 2351

PROFESSIONS AND OCCUPATIONS
Medicine, Board of, West Virginia
Powers and duties continued .................................. 3 2361
Physician Assistants Practice Act
Collaboration ..................................................... 3 2373
Complaint process ............................................. 3 2377
Definitions ....................................................... 3 2363

*Indicates new chapter, article or section.
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insurance plans</td>
<td>3</td>
</tr>
<tr>
<td>License to practice</td>
<td>3</td>
</tr>
<tr>
<td>Expired</td>
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<td>Renewal requirements</td>
<td>3</td>
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<td>Practice requirements</td>
<td>3</td>
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<td>3</td>
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<td>Rulemaking</td>
<td>3</td>
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<td><strong>PUBLIC HEALTH</strong></td>
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<td>Agreements with</td>
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<td>Corridor L</td>
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<tr>
<td>Definitions</td>
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<td>Electronic toll collection</td>
<td>5</td>
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<tr>
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<td>5</td>
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<td>Motor Vehicles, Division of</td>
<td>5</td>
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<tr>
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<td>5</td>
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<td>Public notice</td>
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<td>Rate of tax</td>
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<tr>
<td>Driver license</td>
<td>6</td>
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<tr>
<td>Issuance, expiration and renewal</td>
<td>6</td>
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<td>Motor fuel</td>
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<tr>
<td>Tax on</td>
<td>6</td>
</tr>
<tr>
<td>Motor fuel excise tax</td>
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</tr>
<tr>
<td>Taxes levied, rate</td>
<td>6</td>
</tr>
</tbody>
</table>
Registration fees
  Pneumatic tires
  Vehicles equipped with.............................................. 6  2458
Special stickers
  Application and fees ....................................................... 6  2457
State Road Fund ................................................................. 6  2423
Increasing DMV fees ......................................................... 6  2437

VOLUNTEER FIRE DEPARTMENTS
Workers’ Compensation Premium Subsidy Fund
  Expiration and transfer of moneys..................................... 7  2485