JOURNAL

OF THE

HOUSE OF DELEGATES

EIGHTY-FIFTH

LEGISLATURE

OF

WEST VIRGINIA

VOLUME II

WEST VIRGINIA HOUSE OF DELEGATES

HONORABLE ROGER HANSHAW

SPEAKER OF THE HOUSE

* *

COMPILED AND PUBLISHED
UNDER THE DIRECTION
OF

STEPHEN J. HARRISON

CLERK OF THE HOUSE

OFFICE OF THE CLERK OF THE HOUSE

STATE CAPITOL
CHARLESTON, WEST VIRGINIA

* *

BO HOOVER
Sr. Assistant Clerk/Parliamentarian

Robert Altmann
Assistant Clerk/Bills

Lynn Lewis
Assistant Clerk/Journal

Anne Landgrebe
Administrative Clerk

Lori Skull
Operations Clerk

TABLE OF CONTENTS

VOLUME II

Schedule showing legislative and calendar days..... V

Journal of proceedings

(First Extraordinary Session, 2022) *See* Vol I..... 1

(Regular Session, 2022) *See* Vol. I..... 37

(Regular Session, 2022) Vol. II..... 1297

(Regular Session, 2022) *See* Vol. III..... 2513

(Second Extraordinary Session, 2022) *See* Vol. IV..... 3777

(Third Extraordinary Session, 2022) *See* Vol. IV..... 3835

(Fourth Extraordinary Session, 2022) *See* Vol. IV..... 3997

Index..... 4019

(This index is arranged as follows: Delegates, etc., House Bills, House Concurrent Resolutions, House Joint Resolutions, House Resolutions, Senate Bills, Senate Concurrent Resolutions and Senate Joint Resolutions.)

Topical Index..... 4229
(This is an index by subject to all House Bills introduced for the Regular Session.)

Disposition of bills enacted..... 4331

Appendix..... 4347

SCHEDULE SHOWING LEGISLATIVE DAYS AND CALENDAR DAYS AND PAGES OF JOURNAL COVERING SAME

REGULAR SESSION, 2022

			Page
1st Day	Wednesday	January 12	37
2nd Day	Thursday	January 13	109
3rd Day	Friday	January 14	129
6th Day	Monday	January 17	137
7th Day	Tuesday	January 18	157
8th Day	Wednesday	January 19	209
9th Day	Thursday	January 20	227
10th Day	Friday	January 21	275
13th Day	Monday	January 24	311
14th Day	Tuesday	January 25	329
15th Day	Wednesday	January 26	361
16th Day	Thursday	January 27	379
17th Day	Friday	January 28	437
20th Day	Monday	January 31	459
21st Day	Tuesday	February 1	499
22nd Day	Wednesday	February 2	523
23rd Day	Thursday	February 3	557
27th Day	Monday	February 7	605
28th Day	Tuesday	February 8	639
29th Day	Wednesday	February 9	667
30th Day	Thursday	February 10	727
31st Day	Friday	February 11	777
34th Day	Monday	February 14	825
35th Day	Tuesday	February 15	853
36th Day	Wednesday	February 16	955
37th Day	Thursday	February 17	983
38th Day	Friday	February 18	1019
41st Day	Monday	February 21	1055
42nd Day	Tuesday	February 22	1103
43rd Day	Wednesday	February 23	1195
44th Day	Thursday	February 24	1241
45th Day	Friday	February 25	1297
48th Day	Monday	February 28	1357
49th Day	Tuesday	March 1	1387
50th Day	Wednesday	March 2	1433
51st Day	Thursday	March 3	1655
52nd Day	Friday	March 4	1727

53rd Day ..... Saturday..... March 5..... 1753
55th Day..... Monday ..... March 7..... 1781
56th Day..... Tuesday ..... March 8..... 1805
57th Day..... Wednesday ..... March 9..... 2125
58th Day..... Thursday..... March 10..... 2275
59th Day..... Friday ..... March 11..... 2513
60th Day..... Saturday..... March 12..... 2657

FIRST EXTRAORDINARY SESSION

1st Day ..... Monday ..... January 10..... 1
2nd Day..... Tuesday ..... January 11..... 21

SECOND EXTRAORDINARY SESSION

1st Day ..... Monday ..... April 25..... 3337
2nd Day..... Tuesday ..... April 26..... 3389

THIRD EXTRAORDINARY SESSION

1st Day ..... Monday ..... July 25 3397
2nd Day..... Tuesday ..... July 26 3407
3rd Day ..... Wednesday ..... July 27 3411
4th Day..... Thursday..... July 28 3423
5th Day..... Friday ..... July 29 3433
6th Day..... Tuesday ..... September 13 3519

FOURTH EXTRAORDINARY SESSION

1st Day ..... Monday ..... September 12 3560

Friday, February 25, 2022

FORTY-FIFTH DAY

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

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

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

The Clerk proceeded to read the Journal of Thursday, February 24, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that Com. Sub. for H. B. 2092, on Second Reading, Special Calendar, had been transferred to the House Calendar; H. B. 4841, on First Reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for H. B. 4553, on First Reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

H. B. 4373, To exclude fentanyl test strips from the definition of drug paraphernalia,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4373 - "A Bill to amend and reenact §47-19-3 of the Code of West Virginia, 1931, as amended, relating to

excluding fentanyl test strips from the definition of drug paraphernalia; and specifying that fentanyl test strips are not prohibited under Chapter 60A of this code,"

And,

H. B. 4595, Create camera assisted enforcement of speeding in active work zones,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4595 - "A Bill to amend and reenact §17C-6-1 and §17C-6-7a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §17C-6-7b, all relating to establishing a program for camera assisted speed enforcement in active work zones in this state; authorizing the Commissioner of Highways to set speed limits in work zones on public highways; establishing use of work zone speed control systems as an exception to the prohibition against photo monitoring devices for traffic law enforcement; establishing duty of vehicle owners to ensure lawful operation of their vehicles on public highways; defining terms; authorizing the use of work zone speed control systems for enforcement of speed restrictions in active work zones; specifying lawful uses of equipment and setting conditions upon their operation; specifying qualifications of system operators; establishing specification and restrictions for machine functions; providing for administration of enforcement program by contractor; requiring written notice of violations to be provided to vehicle owners, with specification for contents and manner of delivery; establishing civil penalties for violations and limiting the effect and use of admissions and assessments; establishing response options for owner and the owner's obligation to respond; providing for default for owner's failure to respond and suspension of vehicle registration; authorizing collection of delinquent penalties; providing for administrative hearing, notice of hearing, and judicial review of decisions; restricting the use of images and providing an exception from the Freedom of Information Act; requiring the proposal and acceptance of legislative rules; correcting references to other sections; and requiring the submission of annual reports,"

With the recommendation that the committee substitutes each do pass.

On motion for leave a resolution was introduced (Originating in the Committee on Education and reported with the recommendation that it be adopted, but that it first be referred to the Committee on Rules), which was read by its title, as follows:

By Delegates Skaff, Hanshaw (Mr. Speaker), Dean, Bates, Longanacre, Clark, Toney, Thompson, Bridges, Horst, Evans, Hornbuckle and Ferrell:

H. C. R. 92 - "Requesting the Joint Committee on Government and Finance to conduct a study to assess and address the mental health needs of students at West Virginia higher education institutions."

Whereas, The mental health of students at West Virginia's institutions of higher education ("students") is an increasing concern and the COVID-19 pandemic has created additional negative impacts on students, including burnout, lack of motivation and concentration, social anxiety, general anxiety, stress, loss of sleep, eating disorders, and depression; and

Whereas, Approximately 75 percent of all mental health conditions start by age 24, with higher rates of diagnosed disorders in traditionally college-age students; and

Whereas, A recent national survey found that one in four college students are treated for or diagnosed with a mental health condition and one in five has considered suicide; and

Whereas, Many students who complete a suicide never received on-campus services; and

Whereas, 96 Percent of students reported that they would provide support to peers who were contemplating suicide but many students lack knowledge of mental health signs and symptoms, how to assist their peers or where to refer them for services; and

Whereas, While traditionally college-age students are more accepting of mental health services than the general population,

most struggle with accessing them and are less likely to receive mental health support than any other age group; and

Whereas, Paying for community-based services is a concern for approximately half of students and students from low-income households are more likely to have a mental health condition; and

Whereas, Services offered by most higher education institutions are limited in scope and capacity, with 67 percent of higher education institution counseling center directors stating that their campus psychiatric service capacity is inadequate or does not meet student demand; and

Whereas, Counselors at higher education institutions are working longer hours to meet increasing demand during the pandemic, contributing to the risk of burnout, compassion fatigue, depression, anxiety, and substance use; and

Whereas, Increasing the ratio of counselors to students is a critical component of addressing the mental health needs at higher education institutions and would provide for additional clinical hours, improve crisis response, and increase outreach and prevention; and

Whereas, The national shortage of licensed counselors, has created the need to consider augmenting staff at higher education institution counseling centers with Post-Master's counselors, social workers or psychologists, who are supervised by licensed, experienced clinicians; and

Whereas, Training students, faculty, and staff and providing necessary resources is essential to combat the ongoing mental health crisis affecting students and to increase their resiliency and coping skills; and

Whereas, An urgent need exists to develop interventions and preventive strategies to address the mental health of students; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct a study to assess the mental health needs of students at West Virginia higher education institutions and to address and augment mental health services and resources at these institutions to meet those needs. The study shall include at least the following:

- Evaluation and assessment of mental health needs to be addressed;
- Increasing counselor-to-student ratios, including use and availability of supervised Post-Master's counselors, social workers or psychologists;
- Policies for training and awareness;
- Peer support programs;
- Local assistance and strategic partnerships;
- Online screening, web-based resources and hotlines;
- Mental health education and resources;
- Prevention and recovery programs;
- Collaboration between the higher education institutions and the Higher Education Policy Commission and the Community and Technical College System of West Virginia; and
- Funding needed to meet the needs and resolutions identified by this study, and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

The Speaker referred the resolution (H. C. R. 92) to the Committee on Rules.

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

Your Committee on Education has had under consideration:

S. B. 493, Requiring county BOE make meetings available to public in-person and through internet,

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

In accordance with the former direction of the Speaker, the bill (S. B. 493) was referred to the Committee on the Judiciary.

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

Your Committee on Education has had under consideration:

S. B. 499, Authorizing legislative rules for School Building Authority,

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

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

Your Committee on Education has had under consideration:

S. B. 529, Encouraging additional computer science education in WV schools,

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

In accordance with the former direction of the Speaker, the bill (S. B. 529) was referred to the Committee on Finance.

Delegate Rohrbach, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4031, Ban any and all mask mandates,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4031) was referred to the Committee on the Judiciary.

Delegate Rohrbach, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4320, Relating to natural immunity or antibodies to any illness to be treated as equal or better to vaccine induced immunity,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4320 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-3-14, relating to requiring that a covered employer accept biological immunity for a communicable disease; prohibiting requiring a vaccine if protective antibody level occur; and defining terms,"

With the recommendation that the committee substitute do pass.

Delegate Jeffries, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on 24th day of February, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for H. B. 3220, Restrictions on Taxpayer funded lobbying,

H. B. 4060, Repealing outdated sections of code relating to health,

And,

Com. Sub. for H. B. 4114, Authorizing certain agencies of the Department of Administration to promulgate legislative rules.

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Capito, Pack, Westfall and D. Kelly:

H. B. 4842 - "A Bill to amend and reenact §61-8C-3 of the Code of West Virginia, 1931, as amended, relating to preparation, distribution, or exhibition of obscene matter to minors; and clarifying that the provisions of the section shall not apply to a certified law-enforcement officer or prosecuting attorney, or persons acting under the immediate direction of a certified law-enforcement officer or prosecuting attorney, certain court personnel, or attorneys representing an accused person, all while acting in the course of official duties."

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

Your Committee on Rules has had under consideration:

H. C. R. 89, Hajash Brothers Memorial Bridge,

S. C. R. 6, Holden 22 Coal Miners Memorial Bridge,

Com. Sub. for S. C. R. 17, US Air Force SSGT Logan A. Young Memorial Bridge,

And,

Com. Sub. for S. C. R. 27, US Army TSGT Harold William Schmidle Memorial Bridge,

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

On motion for leave, a bill was introduced (Originating in the Committee on Government Organization and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegate Steele:

H. B. 4840 - "A Bill to repeal §22A-1-21 of the Code of West Virginia, 1931, as amended; to repeal §22A-5-2 of said code; to repeal §22A-6-11, §22A-6-12, §22A-6-13, and §22A-6-14 of said code; to amend and reenact §22A-1-1, §22A-1-4, §22A-1-5, §22A-1-6, §22A-1-14, §22A-1-15, §22A-1-22, §22A-1-35, §22A-1-38 of said code; to amend and reenact §22A-2-12, §22A-2-55, §22A-2-63, §22A-2-66, §22A-2-73 of said code; to amend and reenact §22A-5-1 of said code; to amend and reenact §22A-6-1, §22A-6-2, §22A-6-3, §22A-6-4, §22A-6-5, §22A-6-7, §22A-6-8, §22A-6-9, §22A-6-11, §22A-6-12, §22A-6-13, and §22A-6-14 of said code; to amend and reenact §22A-7-2, §22A-7-3, §22A-7-4, and §22A-7-5 of said code; to amend and reenact §22A-8-1, §22A-8-5, and §22A-8-6 of said code; all relating to the Office of Miners Health, Safety and Training; converting the office to a compliance agency to assist mine operators; providing for alternative mechanisms of enforcement or removing certain enforcement language; requiring compliance visits to mines as often as the director determines is necessary; outlining the type of recommendations or assistance the

office may offer to mines; preserving the mechanism for closing a mine when there are conditions of imminent danger present; permitting the office to serve as a backup mine rescue team when requested by the mine operator; clarifying rulemaking relating to mine safety; clarifying requirements for apprentice miners; permitting apprentice miners be supervised for 90 days; removal of fees associated with obtaining a permit to open a mine; removal of a civil penalty for failure to give notice of a mine accident; discontinuing the Board of Appeals and permitting actions be instituted in the appropriate circuit court; renaming the Board of Coal Mine Health and Safety the Mine Safety Board; providing for altered appointment requirement; requiring that nominees to fill a seat on the board are submitted with a list of the person's qualifications and experience in mine health and safety when representing the viewpoint of the operators; altering appointment requirements for persons appointed to the board representing the viewpoint of miners and requiring that each person's qualifications be provided during the nomination process; altering the appointment requirements for the Health and Safety Administrator to be appointed to the Governor; amending the requirements for the Mine Safety Board to meet at least quarterly; altering the requirements to establish a quorum of the board to vote and conduct business; providing for rulemaking authority pursuant to chapter 29A for the Mine Safety Board; providing for emergency rulemaking authority; providing for rulemaking and emergency rulemaking authority relating to investigations and reports relating to mining accidents; altering membership requirements for the Coal Mine Safety Technical Review Committee; permitting the director to serve as a tie-breaking voting member; altering requirements for a quorum of the committee; permitting the Mine Safety Board to adopt, modify, or reject a proposed rule from the committee; clarifying the effect of the rules to create basic health and safety standards for mine operators; permitting electronic reports be sent when required; clarifying that the Mine Safety Board may offer assistance to any mine operator to implement any program to protect health and safety of miners; and making other technical corrections."

Pursuant to House Rule 88, Delegate Diserio, Minority Chairman of the Committee on Government Organization, submitted the following minority report:

Your Committee on Government Organization has had under consideration:

H. B. 4840, Relating to the Office of Miners Health, Safety and Training,

And reports the same back with the recommendation that it be recommitted to the Committee on Government Organization to allow committee debate before it is again reported to the floor and then it be referred to the Committees on Judiciary and Finance.

Delegate Diserio asked and obtained unanimous consent to reform the minority report, as follows:

Your Committee on Government Organization has had under consideration:

H. B. 4840, Relating to the Office of Miners Health, Safety and Training,

And reports the same back with the recommendation that it be referenced to the Committee on Judiciary.

During debate on the minority report, Delegate Fluharty arose to a point of order regarding the content of questions by Delegate Fast.

The Speaker sustained the point of order due to the question before the House being regarding substituting the minority report for the committee report.

On the question of substituting the minority report for the committee report, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken **(Roll No. 244)**, and there were – yeas 25, nays 71, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Barach, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Mallow, McGeehan, Paynter, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Bridges, Ellington, Kessinger and Storch.

So, a majority of the members present not having voted in the affirmative, substitution of the minority report for the committee report was rejected.

The report from the Committee on Government Organization was then received.

Delegate Espinosa asked and obtained unanimous consent to return to further consideration of the first report from the Committee on the Judiciary, which contained Com. Sub. for H. B. 4595.

In the absence of objection, reference of the bill to the Committee on Finance was dispensed with.

Messages from the Senate

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

Com. Sub. for H. B. 4333, Relating to the sunset of the Board of Hearing-Aid Dealers and Fitters.

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

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

"**ARTICLE 26. HEARING-AID DEALERS AND FITTERS.**

§30-26-21. Sunset and transfer of duties provision; effective date.

The State Board of Hearing-Aid Dealers and Fitters established in this article shall terminate on June 30, 2023, unless continued by the Legislature. Pursuant to §4-10-12 and §4-10-13 of this code, the board shall commence all necessary activities pertinent to the wind-up of all board-related activities. Notwithstanding the termination of the board, the regulation and licensure of hearing aid fitters engaged in the practice of dealing in or fitting of hearing aids under §30-26-1 *et seq.* of this code shall continue with the exception of §30-26-17(6) of this code. Upon termination of the board, the West Virginia Board of Examiners for Speech-Language Pathology and Audiology shall supervise, regulate, and control the practice of dealing in or fitting of hearing aids in this state. Notwithstanding any other provision of code, hearing aids, meaning any wearable device or instrument intended to aid, improve, or compensate for defective or impaired human hearing, may be advertised for mail-order sale in any advertising medium and sold by mail-order sale to any person in this state upon the effective date of this legislation.

ARTICLE 32. SPEECH LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

§30-32-5. Board of Examiners for Speech-Language Pathology and Audiology

(a) The West Virginia Board of Examiners for Speech-Language Pathology and Audiology is continued. The members of the board in office on July 1, 2013, may, unless sooner removed, continue to serve until their respective terms expire or until their successors have been appointed and qualified.

(b) The board consists of the following members appointed by the Governor by and with the advice and consent of the Senate:

(1) ~~Two~~ Three persons who are licensed speech-language pathologists;

(2) Two persons who are licensed audiologists; ~~and~~

(3) One person who is a licensed hearing aid fitter; and

~~(3)~~ (4) One citizen member who is not licensed or registered under this article.

(c) The terms are for three years. No member may serve for more than two consecutive terms.

(d) Each licensed member of the board, at the time of his or her appointment, must have held a license in this state for at least three years.

(e) Each member of the board must be a resident of this state during the appointment term.

(f) No board member may serve as an officer of the West Virginia Speech Language and Hearing Association concurrently with his or her service on the board.

(g) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant.

(h) The Governor may remove any member from the board for neglect of duty, incompetency, or official misconduct.

(i) A licensed member of the board immediately and automatically forfeits membership to the board if his or her license or registration to practice is suspended or revoked.

(j) A member of the board immediately and automatically forfeits membership to the board if he or she is convicted of a felony under the laws of any jurisdiction or becomes a nonresident of this state.

(k) The board shall elect annually one of its members as chairperson and one of its members as secretary-treasurer who shall serve at the will and pleasure of the board.

(l) Each member of the board is entitled to receive compensation and expense reimbursement in accordance with §30-1-1 *et seq.* of this code.

(m) A majority of the members of the board constitutes a quorum.

(n) The board shall hold at least one annual meeting. Other meetings shall be held at the call of the chairperson or upon the written request of four members, at the time and place as designated in the call or request.

(o) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

(p) Board members are immune from civil liability for the performance of their official duties so long as they act in good faith."

And,

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

Com. Sub. for H. B. 4333 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-26-21; and to amend and reenact §30-32-5 of said code, all relating to sunsetting the Board of Hearing-Aid Dealers and Fitters; directing wind up and termination of board; continuing licensure and regulation of hearing aid dealers and fitters under board until date of termination, with certain exception; transferring licensure and regulation of hearing aid dealers and fitters to West Virginia Board of Examiners for Speech-Language Pathology and Audiology upon termination of Board of Hearing-Aid Dealers and Fitters; revising composition of Board of Examiners for Speech-Language Pathology and Audiology; and authorizing advertising and sale of hearing aids by mail upon effective date of legislation."

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 30, U.S. Army Pvt. Dallis H. Johnson WWII Memorial Bridge.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the resolution by the Senate:

On page two, in the Resolved clause, line thirty-two, by striking out the word "WWII";

On page two, in the first Further Resolved clause, line thirty-five, by striking out the word "WWII";

And,

By striking out the title and substituting therefor a new title, to read as follows:

H. C. R. 30 – "Requesting the Division of Highways name a bridge bearing bridge number 40-039/00-000.10 (40A048), (38.34513, -81.99779), locally known as TRACE FORK TIMBER BRIDGE, carrying CR 39 over TRACE CREEK in Putnam county as the "U.S. Army Pvt. Dallis H. Johnson Memorial Bridge."

The resolution, as amended by the Senate, was then adopted.

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

A message from the Senate, by
The Clerk of the Senate, announced the adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 59, "Warrant Officer James G. Bosley Memorial Bridge".

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the resolution by the Senate:

On page one, in the third Whereas clause, line nine, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page one, in the fifth Whereas clause, line thirteen, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page one, in the sixth Whereas clause, line fifteen, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page one, in the seventh Whereas clause, line seventeen, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page two, in the eighth Whereas clause, line twenty, after "21" by inserting the words "years old";

On page two, in the ninth Whereas clause, line twenty-one, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page two, in the tenth Whereas clause, line twenty-four, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page two, in the eleventh Whereas clause, line twenty-six, by striking out the word "Bosely" and inserting in lieu thereof the word "Bosley";

On page two, in the Resolved clause, line thirty, by striking out the word "Warrant" and inserting in lieu thereof the words "U.S. Army Warrant";

On page two, in the first Further Resolved clause, line thirty-three, by striking out the word "Warrant" and inserting in lieu thereof the words "U.S. Army Warrant";

And,

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

H. C. R. 59 – "Requesting the Division of Highways name bridge number 29-093/00-003.42 (29A054), locally known as Claysville Bridge, carrying WV 93 over New Creek in Mineral County, the 'U.S. Army Warrant Officer James Gilbert Bosley Memorial Bridge'."

The resolution, as amended by the Senate, was then adopted.

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

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

Com. Sub. for S. B. 230 - "A Bill to amend and reenact §6C-2-1, §6C-2-2, §6C-2-3, §6C-2-4, and §6C-2-6 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia public employees grievance procedure; defining terms; providing that Division of Personnel may not be a party in certain circumstances; clarifying actions by an agency taken during a declared state of preparedness or emergency or any matter relating to protected classes are not grievable; requiring a notarized grievance form and providing for multiple grievants; providing a grievance must be filed within the time limits specified or it may be dismissed; extending certain time limits; providing for appeal for grievances dismissed for timeliness or lack of jurisdiction; providing the grievance evaluator and the administrative law judge must hold all other proceedings in abeyance until a ruling on motion to dismiss; clarifying that grievances may be consolidated as long as the initial grievance has not been dismissed; providing that proceedings may be rescheduled for good cause shown; requiring grievant representatives provide the names and work location of employees being represented; requiring that employees provide the name and contact information of his or her representative; requiring Division of Personnel receive copies of grievance in certain cases; providing a prevailing party at level three may recover attorney's fees and costs not to exceed $1,000; and authorizing an administrative law

judge to award attorney's fees and costs based on certain findings"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 371 - "A Bill to amend and reenact §64-9-1 *et seq.* of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain miscellaneous agencies and boards to promulgate legislative rules; authorizing the rules, as filed and as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; relating to authorizing the Board of Medicine to promulgate a legislative rule relating to telehealth and interstate telehealth registration for physicians, podiatric physicians, and physician assistants; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to telehealth practice and interstate telehealth registration for osteopathic physicians and physician assistants; and authorizing the Board of Registered Professional Nurses to promulgate a legislative rule relating to telehealth practice"; which was referred to the Committee on Government Organization.

Resolutions Introduced

Delegate Pushkin offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 91 - "Requesting the Division of Highways name bridge number 28-007/00-003.22 (28A012), currently known as Gardner Bridge, carrying County Route 7 over Brush Creek in Mercer County, the 'U.S. Army PFC Ralph E. Lusk Memorial Bridge'."

Whereas, Ralph Emerson Lusk was born on December 12, 1945, at Horse Creek, West Virginia to Robert and Mary Belle Mullens Lusk; and

Whereas, Ralph Lusk entered the U.S. Army at the time of the Vietnam War and he served in the rank of Private First Class with dedication and great sacrifice in that conflict; and

Whereas, After his military service was complete, Ralph Lusk became a coal miner, was a member of UMWA Local 1503, and worked underground for 40 years; and

Whereas, Upon his retirement, he and his wife, Alice Crews Lusk, moved to Mercer County, West Virginia, where he spent his next two decades; and

Whereas, During his life, Ralph Lusk enjoyed playing guitar, being a home handyman, and giving his time to his children, grandchildren, and great-grandchildren; and

Whereas, Ralph E. Lusk tragically lost his life in an accident in Mercer County on January 27, 2020, at the age of 75 years; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army PFC Ralph E. Lusk and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 28-007/00-003.22 (28A012), currently known as Gardner Bridge, carrying County Route 7 over Brush Creek in Mercer County, the "U.S. Army PFC Ralph E. Lusk Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S. Army PFC Ralph E. Lusk Memorial Bridge*"*; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates Skaff, Hanshaw (Mr. Speaker), Dean, Bates, Longanacre, Clark, Toney, Thompson, Bridges, Horst, Evans, Hornbuckle and Ferrell offered the following resolution, which was referred to the Committee on Finance then Rules:

H. C. R. 93 - "Requesting the Joint Committee on Government and Finance study ways that allow the West Virginia Economic Development Authority ('EDA') to target companies and have them move to West Virginia without having to go through the Legislative process for every job announcement."

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study ways that allow the West Virginia Economic Development Authority ("EDA") to target companies and have them move to West Virginia without having to go through the Legislative process for every job announcement; and, be it

Further Resolved, That the Joint Committee on Government and Finance study surrounding states who already have this type of framework in place with their respective EDAs, such as Texas, Georgia, Florida, Utah and Michigan; and, be it

Further Resolved, That the Joint Committee on Government and Finance study ways to create a structure for the EDA to allow them to target big companies, but would also target those smaller/mid-sized companies who may offer 100 or so jobs at a time; and, be it

Further Resolved, That the Joint Committee on Government and Finance study the ways by which our neighboring State of Ohio was able to attract Intel to create jobs in that state, and how that may be replicated by the EDA in our state to attract similarly situated companies who may be looking to relocate; and, be it

Further Resolved, That the Joint Committee on Government and Finance study ways to give more freedom to the EDA to go after companies and have them relocate to West Virginia without having to go through the entire Legislative process each time; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Howell, Clark, Keaton, Riley, Holstein, B. Ward, Zatezalo, Wamsley, Hamrick, Barrett and Hardy offered the following resolution, which was read by its title and referred to the Committee on Education then Rules:

H. C. R. 94 - "Requesting the Joint Committee on Government and Finance study the possibility of combining certain programs related to the West Virginia Department of Health and Human Resources ('DHHR'), Workforce West Virginia, and the West Virginia Community and Technical College System to create a 'one-stop shop' for applicants to be admitted into higher education programs."

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the possibility of combining certain programs related to the West Virginia Department of Health and Human Resources (DHHR), Workforce West Virginia, and the West Virginia Community and Technical College System to create a "one-stop shop" for applicants to obtain admission into higher education programs; and, be it

Further Resolved, That the Joint Committee on Government and Finance study the current application process for individuals to apply for and get into West Virginia Community and Technical colleges; and, be it

Further Resolved, That the Joint Committee on Government and Finance study the current job placement percentage for those

persons who are admitted into and successfully graduate from West Virginia Community and Technical Colleges in West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance study the means by which to obtain more applicants for programs geared towards persons who may have obtained benefits from the DHHR during the COVID-19 pandemic and otherwise over the past 2 years, but want to return to the workforce; and, be it

Further Resolved, That the Joint Committee on Government and Finance study the process of combining certain programs within the DHHR, Workforce West Virginia, and the West Virginia Community and Technical College system to create a "one-stop shop" (for example, a single mother being allowed to remain on certain benefits from the DHHR while applying for a West Virginia Community and Technical College program, all the while being able to have childcare provided for her, grants explained to her that she may be eligible for, and for the ability to enroll in classes); and, be it

Further Resolved, That the Joint Committee on Government and Finance study ways to more efficiently streamline certain DHHR funding streams that could correlate with admission into West Virginia Community and Technical Colleges; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

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

H. B. 4830 - "A Bill supplementing and amending Chapter Eleven, Acts of the Legislature, Regular Session, 2021, known as the budget bill, as amended, in Title II from the appropriations of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Homeland Security, West Virginia State Police, fund 0453, fiscal year 2022, organization 0612, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022 by adding new language; therefore"; to the Committee on Finance.

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

H. B. 4831 - "A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Administration, Travel Management - Aviation Fund, fund 2302, fiscal year 2022, organization 0215, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; to the Committee on Finance.

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

H. B. 4832 - "A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to Miscellaneous Boards and Commissions, Board of Medicine - Medical Licensing Board Fund, fund 9070, fiscal year 2022, organization 0945, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; to the Committee on Finance.

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

H. B. 4833 - "A Bill expiring funds to the balance of the Department of Environmental Protection, Division of Environmental Protection - Reclamation of Abandoned and Dilapidated Property Program Fund, fund 3305, fiscal year 2022,

organization 0313, in the amount of $10,000,000, from the Executive, Governor's Office, Coronavirus State Fiscal Recovery Fund, fund 8823, fiscal year 2022, organization 0100, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; to the Committee on Finance.

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

H. B. 4834 - "A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Homeland Security, Division of Corrections and Rehabilitation - Regional Jail and Correctional Facility Authority, fund 6675, fiscal year 2022, organization 0608, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; to the Committee on Finance.

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

H. B. 4835 - "A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Agriculture - West Virginia Spay Neuter Assistance Fund, fund 1481, fiscal year 2022, organization 1400, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; to the Committee on Finance.

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

H. B. 4836 - "A Bill supplementing and amending the appropriations of public moneys out of the Treasury in the State Fund, General Revenue, by decreasing items of appropriation to the Department of Economic Development - Office of the Secretary, fund 0256, fiscal year 2022, organization 0307; and by increasing items of appropriation to the Department of Commerce - Office of the Secretary, fund 0606, fiscal year 2022, organization 0327 for the fiscal year ending June 30, 2022"; to the Committee on Finance.

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

H. B. 4837 - "A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, General Revenue, to the Executive, Governor's Office – Civil Contingent Fund, fund 0105, fiscal year 2022, organization 0100, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; to the Committee on Finance.

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

H. B. 4838 - "A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Homeland Security, Fire Commission - Fire Marshal Fees, fund 6152, fiscal year 2022, organization 0619, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; to the Committee on Finance.

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

H. B. 4839 - "A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Education, State Board of Education - Strategic Staff Development, fund 3937, fiscal year 2022, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; to the Committee on Finance.

Special Calendar

Third Reading

Com. Sub. for S. B. 221, Establishing occupational therapy compact; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 245)**, and there were—yeas 96, nays none,

absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ellington, Kessinger and Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 221) passed.

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

Com. Sub. for S. B. 452, Permitting civil remedies for unauthorized disclosure of intimate images; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 246)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ellington, Kessinger and Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 452) passed.

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

H. B. 4331, West Virginia's Urban Mass Transportation Authority Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 247)**, and there were, including pairs—yeas 85, nays 12, absent and not voting 3, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Criss Nay: Kessinger

Nays: Burkhammer, Foster, Hanna, Jennings, Kimes, Longanacre, Mallow, Martin, Mazzocchi, Steele and G. Ward.

Absent and Not Voting: Bridges, Ellington and Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4331) passed.

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

On this question, the yeas and nays were taken **(Roll No. 248)**, and there were—yeas 84, nays 8, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Foster, Hanna, Jennings, Kimes, Longanacre, Martin, Steele and G. Ward.

Absent and Not Voting: Bridges, Ellington, Howell, Kessinger, Maynard, Mazzocchi, Riley and Storch.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4331) takes effect from its passage.

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

Com. Sub. for H. B. 4492, Creating the Division of Multimodal Transportation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 249)**, and there were—yeas 93, nays none,

absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ellington, Hamrick, Howell, Kessinger, Maynard and Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4492) passed.

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

Com. Sub. for H. B. 4510, To provide that third grade students be competent in reading and math before moving on to fourth grade; on third reading, coming up in regular order, was reported by the Clerk.

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

Com. Sub. for H. B. 4634, Relating to occupational licensing or other authorization to practice; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 250)**, and there were—yeas 67, nays 26, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Barach, Booth, Brown, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hardy, Hornbuckle, Lovejoy, Pushkin, Rowe, Skaff, Thompson, Toney, Walker, G. Ward, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Barrett, Bridges, Ellington, Ferrell, Kessinger, Maynard and Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4634) passed.

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

Com. Sub. for H. B. 4675, Relating to autonomous delivery vehicles; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 251)**, and there were—yeas 87, nays 8, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Cooper, Gearheart, Horst, Lovejoy, Pushkin, Rowe, Skaff and Walker.

Absent and Not Voting: Bridges, Ellington, Kessinger, Storch and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4675) passed.

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

H. B. 4743, Relating to security and surveillance requirements of medical cannabis organization facilities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 252)**, and there were—yeas 91, nays 4, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Fast, J. Jeffries, Jennings and Kimes.

Absent and Not Voting: Bridges, Ellington, Kessinger, Riley and Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4743) passed.

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

H. B. 4773, Adoption of the FCC customer service and technical standards and requiring certain cable operators to operate an in-state customer call center; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 253)**, and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Kimes.

Absent and Not Voting: Ellington, Kessinger, Pritt, Storch and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4773) passed.

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

Second Reading

S. B. 639, Providing 45-day waiting period on rate increases when water and sewer services are purchased from municipality; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for H. B. 4408, Relating to contracts for construction of recreational facilities in state parks and forests; on

second reading, coming up in regular order, was read a second time.

Delegate Hansen moved to amend the bill on page 1, section 15, line 8, after the word "code", by striking out the period, inserting a colon in lieu thereof, and the following:

"*Provided*, *further*, That the director may not enter into a contract for the development of off-road vehicle trails or the rental or use of off-road vehicles within any state park or state forest."

And,

On page 2, section 16, line 8, after the word "Resources", by striking out the period and inserting a colon in lieu thereof, and the following:

"*Provided,* That the director may not enter into a contract for the development of off-road vehicle trails or the rental or use of off-road vehicles within any state park or state forest."

On the question of adoption of the amendment, the same was put and was rejected.

Delegate Fleischauer moved to amend the bill on page 2, section 16, line 8, by striking out the period, inserting a colon, and the following proviso:

"*Provided,* That no contracts for the construction or operation of an all-terrain vehicle trail in any state park unless the Commissioner first obtains approval of the National Resources Commission following a public hearing conducted by the director within the county in which the facility is located. The director shall publish a Class II legal advertisement notice of the public hearing pursuant to §59-3-2 of this code, with first publication at least 20 days in advance of the hearing."

On the question of adoption of the amendment, the same was put and was rejected.

Delegate Fast moved to amend the bill on page one, section 15, line 14 following the word "code", by inserting the following:

": *Provided*, That nothing in this article should be construed as permitting the establishment of a casino in any state park facility"

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

The yeas and nays having been ordered, they were taken **(Roll No. 254)**, and there were—yeas 32, nays 61, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Barach, Barnhart, Burkhammer, Conley, Cooper, Fast, Griffith, Hanna, Honaker, Hott, Jennings, Keaton, Kimble, Kimes, Longanacre, Mallow, Mandt, Martin, Mazzocchi, Miller, Paynter, Phillips, Pinson, Rowan, Toney, Walker, B. Ward, G. Ward, Worrell, Young and Zukoff.

Absent and Not Voting: Brown, Ellington, Graves, Kessinger, Maynard, Storch and Wamsley.

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

The bill was then ordered to engrossment and third reading.

H. B. 4419, Allowing candidate committees and campaign committees to make contributions to affiliated state party executive committees.; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Fluharty, the bill was amended on page two, section 5c, line 24, by striking out the words "without limit" and inserting in lieu thereof, the words "up to $75,000".

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4473, To provide certain members of the State Police with locality pay to offset the high cost of living in certain counties.; on second reading, coming up in regular order, was read a second time.

Delegate Foster moved to amend the bill on page one, section 5a, line 5, by striking out the following:

"*Provided*, That in any fiscal year, no more than three counties may be so designated." And,

On line 6, by striking the word "Such" and,

Making technical changes on line 6 to capitalize the word "Locality".

Delegate Summers asked unanimous consent that the bill be postponed one day, which consent was not granted, objection being heard.

Delegate Summers then so moved.

On this motion, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken **(Roll No. 255)**, and there were—yeas 71, nays 24, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Diserio, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Kimble, Lovejoy, McGeehan, Pethtel, Pritt, Pushkin, Rohrbach, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Brown, Ellington, Kessinger, Maynard and Storch.

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

Com. Sub. for H. B. 4516, To require medication-assisted treatment programs to have written policies concerning community relations; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4540, To update all retirement plans to comport with federal law; on second reading, coming up in regular

order, was read a second time and ordered to engrossment and third reading.

H. B. 4612, Decreasing the time period of eligibility for nonduty disability from ten to five or more years of service for Municipal Police Officers and Firefighters Retirement; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4613, Relating to increasing the multiplier for use in determining accrued benefit in the West Virginia Municipal Police Officers and Firefighters Retirement System; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4614, Providing optional retirement service credit for unused accrued annual or sick leave days for municipal police and firefighters; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4657, Creating the Critical Mineral Investment Tax Credit Act of 2022; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4660, Establishing the status of beds when an intermediate care facility for individuals with intellectual disabilities closes; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for H. B. 4662, Relating to licensure of Head Start facilities in this state; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4827, Relating to the promotion and development of public-use vertiports; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for S. B. 419, Establishing pilot project to evaluate impact of certain post-substance use disorder residential treatments,

Com. Sub. for H. B. 2733, Relating to the establishment of a Combat Action Badge and Combat Action Ribbon special registration plates,

Com. Sub. for H. B. 2838, Authorize the ordering of restitution to the state for reimbursement of costs incurred for misuse of public funds, and to create the State Auditor's Public Integrity and Fraud Fund for use of said funds,

Com. Sub. for H. B. 4012, Prohibiting the showing of proof of a COVID-19 vaccination,

H. B. 4064, Allowing antique car license plates for cars over 10,000lbs,

Com. Sub. for H. B. 4071, Mask and Quarantine Option For Parents and Faculty,

Com. Sub. for H. B. 4089, Require certain coverage and reimbursement for a person diagnosed with hypertension,

Com. Sub. for H. B. 4285, Relating to real estate appraiser licensing board requirements,

Com. Sub. for H. B. 4317, Tax credits for living and deceased organ donors,

Com. Sub. for H. B. 4377, To update the involuntary commitment process,

Com. Sub. for H. B. 4393, To increase the managed care tax if the managed care organization receives a rate increase,

Com. Sub. for H. B. 4441, Creating a Class M air rifle stamp,

H. B. 4450, Removing the $0.50 fee charged and deposited in the Combined Voter Registration and Driver's Licensing Fund for each driver's license issued by the Department of Motor Vehicles,

Com. Sub. for H. B. 4466, Relating to School Building Authority's review of school bond applications,

H. B. 4482, Relating to removing the statutory limit of $300,000.00 for the Environmental Laboratory Certification Fund,

Com. Sub. for H. B. 4499, Relating to making the procurement process more efficient by modifying and updating outdated processes and requirements,

Com. Sub. for H. B. 4502, Establishing the BUILD WV Act,

Com. Sub. for H. B. 4511, To make numerous amendments to modernize and increase efficiencies in the administration of the West Virginia Unclaimed Property Act,

Com. Sub. for H. B. 4553, To clarify the application of zoning requirements to exempt wholesale generators,

Com. Sub. for H. B. 4560, Relating generally to motor vehicle dealers, distributors, wholesalers and manufacturers,

Com. Sub. for H. B. 4563, Provide for a license plate for auto mechanics,

Com. Sub. for H. B. 4570, To allow veterinary telehealth in West Virginia with out of state providers,

Com. Sub. for H. B. 4600, Making it a felony for a "Person in a Position of Trust" to assault, batter, or verbally abuse a child, or neglect to report abuse they witness,

Com. Sub. for H. B. 4608, To require the State Fire Commission to propose minimum standards for persons to be certified as probationary status volunteer firefighters,

Com. Sub. for H. B. 4616, Remove sales tax on gun safes and certain firearm safety devices,

H. B. 4642, Relating to pecuniary interests of county and district officers, teachers and school officials in contracts,

H. B. 4647, Relating to the Board of Funeral Service Examiners,

Com. Sub. for H. B. 4688, Relating to Emergency Medical Services Retirement System Act,

Com. Sub. for H. B. 4692, To revise the West Virginia Tax Increment Financing Act,

Com. Sub. for H. B. 4753, Prohibiting locating certain homeless facilities near schools and certain daycares,

Com. Sub. for H. B. 4756, Relating to authorizing municipalities to create pension funding programs to reduce the unfunded liability of certain pension and relief funds,

H. B. 4778, Permit banks to transact business with any one or more fiduciaries on multiple fiduciary accounts,

Com. Sub. for H. B. 4779, Permit banks the discretion to choose whether to receive deposits from other banks, savings banks, or savings and loan associations when arranging for the re-deposits of county, municipal, and state funds,

Com. Sub. for H. B. 4787, Creating the Highly Automated Motor Vehicle Act,

Com. Sub. for H. B. 4794, Requiring counties provide fiscal information for State Auditor's WV Checkbook website,

And,

H. B. 4829, Modifying definitions of certain school cafeteria personnel.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Ellington and Kessinger.

At 2:13 p.m., on motion of Delegate Summers, the House of Delegates recessed until 5:30 p.m.

* * * * * * *

Evening Session

* * * * * * *

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

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that Com. Sub. for H. B. 4473, on Second Reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for H. B. 4595, on First Reading, Special Calendar, had been transferred to the House Calendar.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

H. B. 3303, Relating to clarifying the process of filling vacancies on ballots.

A message from the Senate, by

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

Com. Sub. for S. B. 588 - "A Bill to amend and reenact §5B-1A-1, §5B-1A-2, §5B-1A-3, §5B-1A-4, §5B-1A-5, §5B-1A-6, and §5B-1A-9 of the Code of West Virginia, 1931, as amended, all relating to establishing the West Virginia Rail Trails Program consisting of rail-to-trail and rail with trail programs; updating definitions to include a definition of "rail with trail;" expanding State Rail Authority to acquire railroad rights-of-way and land for both trail programs; clarifying that rail-to-trail program may not unreasonably limit ability to restore rail service on railroad rights-of-way; and expanding limitation of and exception to liability to railroad owners under certain circumstances"; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 616 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8B-19, relating to the confidentiality of certain court files and law-enforcement records regarding victim identity in enumerated offenses; providing mechanisms for release of otherwise confidential information; permitting the examination or copying of certain files by court order; and obtaining certain files by the issuance of a subpoena duces tecum"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules as follows:

S. C. R. 52 - "Requesting the Joint Committee on Government and Finance to conduct a formal feasibility study on the viability of establishing an accredited school of veterinary medicine in West Virginia and establishing additional veterinary technician programs in the state."

Whereas, Currently, there are only 33 accredited schools of veterinary medicine "veterinary schools" in the United States, with only 27 states housing veterinary schools; and

Whereas, The U.S. Bureau of Labor Statistics reported in 2019 that employment for veterinarians nationwide would increase 16 percent over the next decade, more than double the national average occupational growth (five percent - eight percent); and

Whereas, Throughout 2021, multiple news organizations in West Virginia published articles describing the dire veterinarian shortage; and

Whereas, In 2018, the American Veterinary Medical Association Economics Division identified 113,394 veterinarians living in the United States, of whom 20,000 are expected to retire within the next five to 10 years; and

Whereas, Most counties in West Virginia have fewer veterinarians than the national average per capita and eight counties have no veterinarian at all; and

Whereas, West Virginia does not currently have a veterinary school and, therefore, West Virginia students must leave the state and pay out-of-state tuition to pursue a Doctor of Veterinary Medicine degree; and

Whereas, West Virginia currently spends $1,040,520 per year to supplement the tuition of 52 West Virginia students who attend veterinary schools at Virginia Polytechnic Institute and State University known as Virginia Tech which seats six per class and

Mississippi State University known as Mississippi State which seats seven per class; and

Whereas, In addition to the 13 West Virginia first year students who held seats at veterinary schools at Virginia Tech and Mississippi State, an additional 12 West Virginia students were identified as first year veterinary students in 2021 in an American Association of Veterinary Medical College internal data report; and

Whereas, The West Virginia students who meet the minimum qualifications for admissions to the programs at Virginia Tech and Mississippi State has increased from 35 students in 2016-2017 to 70 students in 2020-2021; and

Whereas, Over the last two decades, applications to veterinary schools nationally have increased by 53 percent; and

Whereas, Establishing a veterinary school in West Virginia would enable West Virginia students to remain in West Virginia for their education; and

Whereas, Current student enrollment and interest in animal and nutritional science programs at state colleges and universities demonstrates the need for a veterinary school within the state; and

Whereas, West Virginia has a rich history of agriculture and is committed to developing a sustainable plan to maximize the agricultural sector for economic growth and prosperity, including the development and retention of large animal veterinarians to serve the state's growing agriculture industry; and

Whereas, There exists a need for educated and experienced professionals within the state to support the long-term prosperity of the agricultural industry; and

Whereas, Having a veterinary school in West Virginia would attract students from across the nation to West Virginia, contributing to the economy and providing for the potential that the students will stay in West Virginia; and

Whereas, Considering the recitals above regarding the viability of establishing an accredited school of veterinary medicine in West Virginia, there also exists a concurrent need for additional educated and experienced veterinary technicians to serve and support the long-term prosperity of the agricultural industry in West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance, through the Legislative Auditor, is hereby requested to conduct a formal feasibility study on the viability of an accredited veterinary school in West Virginia, and, if necessary, is authorized to contract for the performance of such study with an outside vender; and, be it

Further Resolved, That the Joint Committee on Government and Finance, through the Legislative Auditor, is hereby requested to conduct a formal feasibility study on the viability of establishing additional veterinary technician programs in West Virginia, and, if necessary, is authorized to contract for the performance of such study with an outside vender; and, be it

Further Resolved, That the studies shall focus on the most efficient and practical use of existing programs of study at state colleges and universities and the opportunity to incorporate these programs in a manner to prepare students for a pathway of veterinary medicine and a pathway for veterinary technicians, and develop and retain veterinarians and technicians within the state; and, be it

Further Resolved, That the studies shall include a report on all barriers and impediments to creating an accredited veterinary school and additional veterinary technician programs; and, be it

Further Resolved, That pending the results of the study and in the interim period leading up to the establishment of any veterinary school, if additional seats at other states' veterinary schools are necessary to ensure that the veterinary needs of West Virginia are met; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct these studies, prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance; and, be it

Further Resolved, That the funding necessary to secure additional seats at other states' veterinary schools be paid through legislative appropriations to the state's annual budget."; which was referred to the Committee on Rules.

In the absence of objection, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

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

Your Committee on Rules has had under consideration:

H. C. R. 90, U.S. Army PVT Robert (Bob) Mullins Sr. Memorial Bridge,

S. C. R. 15, US Army PVT Shirley E. Bailey Memorial Bridge,

S. C. R. 21, Putnam County Veterans Memorial Bridge,

S. C. R. 34, USMC SGTMAJ Herman H. Brawner Memorial Bridge,

And,

S. C. R. 46, Supporting North Central WV aviation and aerospace industries,

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

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 2300, Including Family Court Judges in the Judges' Retirement System,

And,

H. B. 4571, Modifying foundation allowance to account for transportation by electric powered buses,

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

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 4021, Relating to the Medical Student Loan Program,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4021 - "A Bill to amend and reenact §18C-3-1 of the Code of West Virginia, 1931, as amended, relating to the Medical Student Loan Program; defining terms; establishing programs at certain schools, authorizing medical schools to make loans; authorizing the use of special revolving funds for program use; establishing eligibility requirements; setting maximum loan amount; requiring an agreement for persons participating; requiring persons participating to select service commitment area; providing for cancellation of loan if person satisfies the obligations of the service agreement; establishing repayment obligation for those participants who do not satisfy commitment obligation; creating procedure for person to request working less than full-time; and establishing school reporting requirements,"

H. B. 4370, Clarifying that the Statewide Interoperability Executive Committee is responsible to develop, update, and implement policies regarding the Statewide Interoperable Radio Network,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4370 - "A Bill to amend and reenact §15-14-6 and §15-14-9 of the Code of West Virginia, 1931, as amended, all relating to the Statewide Interoperable Radio Network; providing duties for the Statewide Interoperability Executive Committee; authorizing the Statewide Interoperability Executive Committee to revoke, suspend, or modify any entity's use of the Statewide Interoperable Radio Network or equipment connected thereto; and requiring certain state agencies to submit two-way telecommunications equipment to the Division of Emergency Management for cleansing, redistribution, reuse or sale, with proceeds directed to the Statewide Interoperable Radio Network account,"

H. B. 4467, Requiring early childhood classroom assistant teacher in certain grade levels and enrollment levels in said grade levels,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4467 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-18d, relating to establishing a model project to provide early childhood classroom assistant teachers in certain grade levels and enrollment levels in said grade levels,"

And,

H. B. 4565, To exempt temporary employees and employees of the Higher Education Policy Commission from automatic enrollment into the state's 457 (b) plan,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4565 - "A Bill to amend and reenact §5-10B-2 and §5-10B-3a of the Code of West Virginia, 1931, as amended; to amend §18-25-1 of said code; and to amend §18A-4-12 of said code; all relating generally to government employees deferred compensation plans; providing definitions; exempting certain employees from the requirement of automatic enrollment into certain plans; and removing outdated language to align with federal law,"

With the recommendation that the committee substitutes each do pass.

On motion for leave, a bill was introduced (Originating in the Committee on Education and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Hanna, Clark, Horst, Mazzocchi, Kimble, Keaton, Haynes, Hamrick, Mallow, Longanacre and Martin:

H. B. 4845 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-2L-1, §18-2L-2, §18-2L-3, §18-2L-4, §18-2L-5, §18-2L-6, §18-2L-7, §18-2L-8, §18-2L-9, §18-2L-10, §18-2L-11, and §18-2L-12; and to amend said code by adding thereto a new article, designated §18C-10-1, §18C-10-2, §18C-10-3, §18C-10-4, and §18C-10-5, all relating generally to the establishment of the Katherine Johnson Academy as magnet school programs at colleges and universities in West Virginia; defining terms; creating a board of trustees to govern the Katherine Johnson Academy; providing for membership of the board of trustees, the selection of a chair, terms of the trustees, duties and responsibilities, setting of meetings, and establishing trustees to serve without compensation; authorizing the board of trustees to perform certain duties; providing for the appointment of a president; providing for collaboration agreements for the establishment of magnet school programs; providing for restrictions on the amount that may be charged for tuition, fees, room, board, and books; authorizing the establishment of residential programs and commuter programs at colleges and universities; establishing the Academy of Mathematics and Science and the Academy for the Performing Arts; requiring the

board of trustees to select certain host institutions pursuant to a competitive bidding process; establishing certain minimum eligibility requirements for students; authorizing a host institution to determine admission and enrollment; requiring students accepted and admitted into a magnet school program to receive the PROMISE scholarship; providing for students to receive a scholarship from the Katherine Johnson Scholarship Fund; providing that no county board or college or university will be required to participate in this program; requiring the Katherine Johnson Academy, the State Board of Education, and the Higher Education Policy Commission to promulgate a joint rule for the administration of the Katherine Johnson Academy; establishing the Katherine Johnson Scholarship Fund; providing for state and county support for the Katherine Johnson Scholarship Fund based upon per-pupil allocations; defining terms; and providing for rulemaking."

On motion for leave, a bill was introduced (Originating in the Committee on Education and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Clark, Ellington, Ferrell, Longanacre, Thompson, Bridges, Mazzocchi, Horst, Maynor, Jennings and Hanna:

H. B. 4844 - "A Bill to amend and reenact §18-20-1c of the Code of West Virginia, 1931, as amended; and to amend and reenact §18A-4-10 and §18A-4-14 of said code, all relating to public school personnel; prohibiting regular classroom teachers and special education classroom teachers required to participate an individualized education program committee from being required to prepare or reduce to writing the individualized education program plan unless no other knowledgeable professional is available; increasing number of personal leave days an employee may use without regard to the cause for the absence; providing alternative conditions for authorized use of consecutive personal leave days without cause; and requiring state board rule providing uniform notice method and exchange process, prohibition on contact for certain purposes, agreement form and benefit amount

regarding a teacher's voluntary exchange of duty-free lunch recess to perform duties at the school."

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 4336, Providing for the valuation of natural resources property,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4336 - "A Bill to amend and reenact §11-1C-10 of the Code of West Virginia, 1931, as amended; relating generally to valuation and assessment regarding personal property taxation; providing for a revised methodology to value property producing oil, natural gas, and natural gas liquids by the Tax Commissioner for property tax assessments; providing for methods, limitations, calculation requirements, and definitions, all of which are used to determine fair market value, net proceeds, actual annual operating costs, a capitalization rate, production decline rates, a yield capitalization model, a working interest model, and a royalty interest model; providing for a safe harbor for marginal wells costs; providing limitations on calculations by the commissioner; providing for annualized gross receipts and actual annual operating expenses before calculation of the models; providing limitations on minimum valuations of wells; providing for reporting by the Tax Commissioner of certain information; providing for rule-making; providing a sunset date; and providing multiple effective dates,"

With the recommendation that the committee substitute do pass.

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Fast, Pack, Haynes, Keaton, Kimble and B. Ward:

H. B. 4846 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §17C-24-1, et. seq.; all relating to flying under the influence and other aviation offenses; prohibiting operation of aircraft while under the influence of alcohol, controlled substances, or drugs; defining terms; providing for implied consent to testing; preliminary analysis of breath to determine alcoholic content of blood; the administration of blood tests; interpretation of such tests; rights to demand testing; providing for fee for withdrawing a blood sample and making a urine test; forbidding careless or reckless operation of an aircraft; forbidding unauthorized taking of an aircraft; requiring federal licensure to operate an aircraft; providing criminal penalties; and requiring state officers to collaborate in enforcing aeronautics laws."

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Capito, Graves, Westfall, Fast, Pushkin, Lovejoy, Pack, Zukoff, Haynes, Pritt and Fluharty:

H. B. 4847 - "A Bill to amend and reenact §15-3D-4, and §15-3D-5 of the Code of West Virginia, 1931, as amended, relating to missing persons generally; providing that missing persons information shall be furnished to West Virginia State Police; providing that persons aged over 75 years qualify as high risk persons; and, providing that an investigation shall start in all such instances as soon as the missing persons complaint is received.."

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

Your Committee on the Judiciary has had under consideration:

H. B. 4050, Defining terms related to livestock trespassing,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4050 - "A Bill to amend and reenact §19-18-1 of the Code of West Virginia, 1931, as amended, relating to defining terms related to livestock trespassing,"

And,

H. B. 4353, Relating to On Cycle Elections - Voter Turnout Act,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4353 - "A Bill to amend and reenact §3-1-30 and §3-1-31 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-2-19 of said code; to amend and reenact §3-11-1 of said code; to amend and reenact §7-1-1a of said code; to amend and reenact §7-4-1 of said code; to amend and reenact §7-14B-21 of said code; to amend and reenact §7-17-12 of said code; to amend and reenact §7-20-7 and §7-20-12 of said code; to amend and reenact §8-1-2 of said code; to amend and reenact §8-2-5 of said code; to amend and reenact §8-3-6 of said code; to amend and reenact §8-4-7, §8-4-8, and §8-4-10 of said code; to amend and reenact §8-5-5 of said code; to amend and reenact §8A-7-7, §8A-7-8a, and §8A-7-13 of said code; to amend and reenact §11-8-16, and §11-8-17 of said code; to amend and reenact §13-1-7, and §13-1-11 of said code; to amend and reenact §15-2-13 of said code; to amend and reenact §16-12-1 of said code; to amend and reenact §18-9-1, §18-9-2, and §18-9-2a of said code; to amend and reenact §20-5K-3 of said code; to amend and reenact §22-15A-18 of said code; to amend and reenact §22C-4A-2, and §22C-4A-3 of said code; to amend and reenact §22C-6-3 of said code; to amend and reenact §29-22C-7 of said code; to amend and reenact §29-25-7 of said code; to amend and reenact §47-20-26 of said code; to amend and reenact §47-21-24 of said code; and to amend and reenact §60-5-1, §60-5-3, and §60-5-4 of said code, all relating to bringing uniformity to local elections by ensuring that all counties hold local elections on a date that a statewide election is already taking place, on a primary or general election date; requiring that local elections and any elections to increase levies coincide with a primary or a general election; removing references to special elections for levies; providing a saving clause for the renewal of

existing levies by providing for levying bodies and boards of education to vote in order to schedule such elections to renew or extend these levies in a manner which brings them into conformity with the new structure; and authorizing poll clerks to work and be compensated for both full and half days worked during an election,"

With the recommendation that the committee substitutes each do pass.

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

Your Committee on the Judiciary has had under consideration:

H. J. R. 104, Providing Term Limits for certain Constitutional Officers,

And reports the same back with the recommendation that it be adopted.

On motion for leave, a bill was introduced (Originating in the Committee on Government Organization and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Steele, Dean, Smith and Young:

H. B. 4848 - "A Bill to repeal §60-3A-19 of the Code of West Virginia, 1931, as amended; to repeal §60-4-10 of said code; to repeal §60-7-17 of said code; to amend and reenact §11-16-6d, §11-16-6f, and §11-16-8 of said code; to amend said code by adding thereto a new section, designated §60-1-3a; to amend and reenact §60-3A-3a, §60-3A-3b, §60-3A-17, and §60-3A-19 of said code; to amend and reenact §60-4-22 and §60-4-23 of said code; to amend and reenact §60-6-24 of said code; to amend and reenact §60-7-2, §60-7-6, §60-7-8a, and §60-7-8f, of said code; to amend said code by adding thereto a new section, designated §60-7-2a; to amend and reenact §60-8-6c, §60-8-6e, and §60-8-6f of said code; and to amend and reenact §61-8-27 of said code, all relating to nonintoxicating beer, wine, and liquor licenses and requirements; removing limitations on the convenience fee; removing provisions

requiring a scanned stored image of a driver's license or other legal identification; providing for other legal identification verification requirements; providing for removal of the 300 foot requirement under certain conditions; clarifying that licensees are not required to place alcoholic liquors in a bag after purchase; altering the requirements relating to prior approval for a sampling event; revising to require prior notice before a tasting event; removing provisions relating to a five dollar cap on the convenience fee to deliver drinks containing liquor, wine, or nonintoxicating beer or nonintoxicating craft beer; increasing the minimum markup from 110 percent to 115 percent; removing unconstitutional provisions relating to a moratorium on exotic entertainment; revising the blood alcohol chart; creating a license for a private bakery to produce confections with alcohol added and setting a license fee; creating a license for a private cigar shop to, where legally permissible, permit the sale of alcohol, food, and cigars for on-premises consumption, and setting a license fee; creating a license for a private college sports stadium for alcohol sales in certain areas of Division I, II, or III sports stadiums, and setting a license fee; creating a license for a private food truck to conduct food and alcohol sales at various locations when permitted by a municipality, and setting a license fee; permitting private hotels and private resort hotels to apply for a private caterer license; authorizing private hotels and private resorts hotels to utilize in-room mini-bars for limited alcohol sales to adults 21 year of age and over; authorizing licensed entities to hold a secondary license for purposes of events, fairs, and festivals; authorizing wine growler sales where wine may be mixed with ice and water to produce a frozen alcoholic beverage for sale in sealed wine growlers, and additional requirements; and providing additional exceptions to the criminal penalty for the unlawful admission of children to a dance hall for certain private clubs with an age verification system."

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 3073, Relating to the West Virginia Emergency School Food Act,

And,

H. B. 4463, To increase the compensation members of the State Athletic Commission may receive for their attendance and participation in the commission's public meetings,

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

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 4001, Generally relating to broadband,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4001 - "A Bill to amend and reenact §31G-1A-7 of the Code of the West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §31G-3-5; to amend said code by adding thereto a new section, designated §31G-4-2a; to amend said code by adding thereto a new article, designated §31G-7-1, §31G-7-2, §31G-7-3, §31G-7-4 and §31G-7-5; and to amend said code by adding thereto a new article, designated §31G-8-1, §31G-8-2 §31G-8-3 and §31G-8-4, all relating to certain provisions relating to broadband; creating a process for the mapping of disturbances in rights of way; creating utility pole rights of way and easement mapping initiative; creating existing customer protections for the Office of the Attorney General in coordination with the Office of Broadband and Department of Economic Development; establishing fees; providing for competitive access infrastructure; providing for credits; defining modems and other connection devices; defining competitive access infrastructure; defining eligible telecommunications carriers; defining the status of such; and providing for penalties where misrepresentation of eligible telecommunications carrier status occurs,"

H. B. 4020, Relating to reorganizing the Department of Health and Human Resources,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4020 - "A Bill to amend and reenact §5F-1-2 of the Code of West Virginia, 1931, as amended, and to amend and reenact §5F-2-1 of said code; all relating to reorganizing the Department of Health and Human Resources; separating the Department of Health and Human Resources into two departments; creating the Department of Health; creating the Department of Human Resources; establishing the organizational structure of the Department of Health; and establishing the organizational structure of the Department of Human Services,"

H. B. 4439, Creating a special revenue account known as the Military Authority Federal Matching Grant Fund,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4439 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-J-6; and to amend and reenact §36-8-13 of said code, all relating generally to creating a special revenue account known as the Military Authority Reimbursable Expenditure Fund; establishing the account; declaring the purpose of the account; providing that the Adjutant General shall administer the account; authorizing the Adjutant General to invest moneys in the account; setting forth the permissible contents of the account; authorizing the Adjutant General to make certain expenditures from the account; requiring the Adjutant General to reimburse the account after receiving federal reimbursement moneys; providing that moneys in the account will revert to the Unclaimed Property Fund at the end of each fiscal year; and authorizing the unclaimed property administrator to transfer a certain amount from the Unclaimed Property Trust Fund to the account,"

H. B. 4497, Relating to the repeal of the article governing the Regional Jail and Correctional Facility Authority Board,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4497 - "A Bill to amend and reenact §15A-3-16 of the Code of West Virginia, 1931, as amended, relating to setting the regional jail per diem rate through July 1, 2023,"

H. B. 4580, To authorize retired bus operators, cooks or aides to work in areas of critical need,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4580 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-4-15a, relating to reemployment of retired bus operators; providing for legislative findings; providing for definitions; explaining the purpose of the section; defining the framework for when these individuals may work as needed; and providing for an expiration date,"

And,

H. B. 4826, Relating to e-sports,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4826 - "A Bill to amend and reenact §29-22D-3 of the Code of West Virginia, 1931, as amended relating to allowing wagering on e-sports events; providing definition of e-sports events; and including e-sports event in the definition of sports event or sporting event,"

With the recommendation that the committee substitutes each do pass.

On motion for leave, a bill was introduced (Originating in the Committee on Finance and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Barrett, Espinosa, Hardy, Storch, Rowan, Rowe, Hott and Householder:

H. B. 4843 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-3-7a,

relating to authorizing the Commissioner of the West Virginia Division of Corrections and Rehabilitation to offer locality pay to correctional officers working at certain facilities designated by the Commissioner as having critical staffing shortages."

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

Your Committee on the Judiciary has had under consideration:

H. B. 4293, Prohibiting mass mailing of absentee ballots,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4293 - "A Bill to amend and reenact §3-3-5 of the Code of West Virginia, 1931, as amended, relating to absentee ballots; requiring applications for absentee ballots to be available at the office of the county clerk and online at the Secretary of State's official website; permitting first responders to vote by electronic absentee ballot in certain emergency circumstances; defining "qualified first responder" and providing examples; providing for submittal and acceptance of qualified first responder absentee voting applications; providing for transmittal of ballots to qualified first responders; providing for processing of received electronic absentee ballots cast by qualified first responders; prohibiting an election official from providing an unsolicited application for absentee voting to any voter; prohibiting any person from providing more than 10 unsolicited applications for absentee voting to any voter; creating a misdemeanor penalty upon conviction for such prohibited activity; and providing exceptions,"

With the recommendation that the committee substitute do pass.

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Westfall, Pack and Lovejoy:

H. B. 4849 - "A Bill to amend and reenact §38-10-4 of the Code of West Virginia, 1931, as amended, all relating to bankruptcy; correcting an erroneous terms; excluding life insurance proceeds paid to the debtor as a beneficiary, not to exceed $100,000; excluding any annuities, other than those annuities included in §38-10-4(i)(5), which are paid to the debtor as a beneficiary, not to exceed $20,000 per year in value; and, excluding any annuities or life insurance policies owned by the debtor which are payable to someone other than the debtor, including any applicable cash surrender value, from attachment by creditors in a bankruptcy proceeding."

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

Your Committee on the Judiciary has had under consideration:

H. B. 4623, Uniform Common Interest Ownership Act,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4066, Distracted Driving Act,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4066 - "A Bill to amend and reenact §17C-14-15 of the Code of West Virginia, 1931, as amended, relating to distracted driving; increasing the scope of prohibitions on distracted driving by establishing the Distracted Driving Act; defining terms; providing exclusions from those terms; providing limitations for the use of wireless telecommunications devices; providing guidelines for safe operation of a vehicle; prohibiting certain actions by all drivers; prohibiting certain actions by commercial drivers; providing each violation of this code section

shall constitute a separate offense; providing penalties for violations of these provisions; providing exceptions; providing that the provisions of this section do not supersede other provisions of this code or any more restrictive provisions for drivers of commercial motor vehicles; and establishing a naming provision for changes made in the 2022 Legislative session,"

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2751, Modernize the process for dissolution of municipal corporations in this State,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4629, Relating to procedures for certain actions against the state,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4629 - "A Bill to amend and reenact § 55-17-3 of the Code of West Virginia, 1931, as amended, relating to actions against the State of West Virginia; authorizing the Attorney General or the chief officer of the subject government agency to issue a response to the potential claimant within 60 days of receipt of the notice to file suit; tolling the statute of limitations during pre-suit negotiations for actions against the state; providing that if pre-suit negotiations have not been concluded within six (6) months from the date of receipt of the notice of intent to file suit, then such pre-suit negotiations are deemed to be concluded;

affording a 90 day time to file suit absent pretrial negotiations; providing an exemption from the 90 day time to file suit if the potential claimant is a minor; and dismissing claims absent suit filed within this 90 days,"

With the recommendation that the committee substitute do pass.

Miscellaneous Business

Pursuant to House Rule 132, consent was obtained to print the following remarks in the Appendix to the Journal:

- Delegate Honaker regarding the amendment offered to Com. Sub. for H. B. 4473

Pursuant to House Rule 94b, forms were filed with the Clerk's Office to be added as a cosponsor of the following:

H. B. 2300: Delegate Hott;

H. B. 4066: Delegate Pack;

H. B. 4102: Delegate Thompson;

H. B. 4580: Delegate Espinosa;

H. B. 4840: Delegate Burkhammer;

And,

H. B. 4849: Delegate Brown.

At 6:28 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, February 28, 2022.

Monday, February 28, 2022

FORTY-EIGHTH DAY

[DELEGATE ESPINOSA, MAJORITY WHIP, IN THE CHAIR]

The House of Delegates was called to order by the Honorable Paul Espinosa, Majority Whip.

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

The Clerk proceeded to read the Journal of Friday, February 25, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for S. B. 489 - "A Bill to amend and reenact §7-14-17c of the Code of West Virginia, 1931, as amended, relating to clarifying the amount of a deputy sheriff's annual monetary payment for years of service"; which was referred to the Committee on Finance.

Motions

Delegate Thompson was recognized and moved, pursuant to House Rule 82, that H. B. 4741 be discharged from the Committee on Government Organization.

Delegate Summers moved that the motion be tabled.

On this question, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken **(Roll No. 256)**, and there were—yeas 74, nays 21, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Hornbuckle, Howell, Jennings, Pinson and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the motion was laid upon the table.

Special Calendar

Unfinished Business

The following resolutions, on unfinished business, were, in the absence of objection, considered en bloc, and adopted:

S. C. R. 15, US Army PVT Shirley E. Bailey Memorial Bridge,

Com. Sub. for S. C. R. 17, US Air Force SSGT Logan A. Young Memorial Bridge,

S. C. R. 21, Putnam County Veterans Memorial Bridge,

Com. Sub. for S. C. R. 27, US Army TSGT Harold William Schmidle Memorial Bridge,

S. C. R. 34, USMC SGTMAJ Herman H. Brawner Memorial Bridge,

H. C. R. 89, Hajash Brothers Memorial Bridge,

And,

H. C. R. 90, U.S. Army PVT Robert (Bob) Mullins Sr. Memorial Bridge.

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

S. C. R. 6, Holden 22 Coal Miners Memorial Bridge; on unfinished business, was reported by the Clerk.

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

The yeas and nays having been ordered, they were taken **(Roll No. 257)**, and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Hornbuckle, Howell, Jennings, Pinson and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the resolution (S. C. R. 6) adopted.

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

S. C. R. 46, Supporting North Central WV aviation and aerospace industries; on unfinished business, was reported by the Clerk, and adopted.

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

Third Reading

S. B. 639, Providing 45-day waiting period on rate increases when water and sewer services are purchased from municipality; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 258)**, and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Riley.

Absent and Not Voting: Hornbuckle, Howell, Jennings and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the bill (S. B. 639) passed.

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

Com. Sub. for H. B. 4408, Relating to contracts for construction of recreational facilities in state parks and forests; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 259)**, and there were—yeas 77, nays 20, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Barach, Diserio, Doyle, Evans, Fast, Fleischauer, Griffith, Hansen, Hardy, Hornbuckle, Kessinger, Lovejoy, Martin, Nestor, Pushkin, Rowe, Thompson, Walker, Williams and Young.

Absent and Not Voting: Howell, Jennings and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the bill (Com. Sub. for H. B. 4408) passed.

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

On this question, the yeas and nays were taken **(Roll No. 260)**, and there were—yeas 84, nays 13, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Barach, Diserio, Doyle, Fast, Hansen, Hardy, Hornbuckle, Lovejoy, Nestor, Pushkin, Thompson, Walker and Williams.

Absent and Not Voting: Howell, Jennings and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Presiding Officer declared the bill (Com. Sub. for H. B. 4408) takes effect from its passage.

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

H. B. 4419, Allowing candidate committees and campaign committees to make contributions to affiliated state party executive committees; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 261)**, and there were—yeas 69, nays 28, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Barach, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fast, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Kimble, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Smith, Thompson, Walker, Wamsley, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Howell, Jennings and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the bill (H. B. 4419) passed.

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

Com. Sub. for H. B. 4510, To provide that third grade students be competent in reading and math before moving on to fourth

grade; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 262)**, and there were—yeas 84, nays 11, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Barach, Conley, Hansen, J. Kelly, Nestor, Rowan, Rowe, Thompson, Walker, Wamsley and Zukoff.

Absent and Not Voting: Capito, Howell, Jennings, Young and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the bill (Com. Sub. for H. B. 4510) passed.

Delegate Summers moved that the bill take effect July 1, 2022.

On this question, the yeas and nays were taken **(Roll No. 263)**, and there were—yeas 86, nays 8, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Barach, Hansen, Nestor, Rowan, Thompson, Walker, Wamsley and Zukoff.

Absent and Not Voting: Capito, Howell, Jennings, Pinson, Young and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Presiding Officer declared the bill (Com. Sub. for H. B. 4510) takes effect July 1, 2022.

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

Com. Sub. for H. B. 4516, To require medication-assisted treatment programs to have written policies concerning community

relations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 264)**, and there were—yeas 85, nays 5, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Barach, Hansen, Pushkin, Walker and Young.

Absent and Not Voting: Bridges, Capito, Garcia, Howell, Jennings, J. Kelly, Pinson, Thompson, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the bill (Com. Sub. for H. B. 4516) passed.

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

At 1:14 p.m., the House of Delegates recessed for ten minutes.

Following the recess, the House of Delegates was called to order by the Honorable Paul Espinosa, Majority Whip.

Special Calendar

Third Reading

- continued -

Com. Sub. for H. B. 4540, To update all retirement plans to comport with federal law; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 265)**, and there were—yeas 87, nays none, absent and not voting 13, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Bridges, Brown, Hanna, Howell, Jennings, Longanacre, Pinson, Pritt, Skaff, Steele, Thompson and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the bill (Com. Sub. for H. B. 4540) passed.

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

H. B. 4612, Decreasing the time period of eligibility for nonduty disability from ten to five or more years of service for Municipal Police Officers and Firefighters Retirement; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 266)**, and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Brown, Hanna, Howell, Jennings, Pinson, Pritt, Steele and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the bill (H. B. 4612) passed.

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

Com. Sub. for H. B. 4613, Relating to increasing the multiplier for use in determining accrued benefit in the West Virginia Municipal Police Officers and Firefighters Retirement System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 267)**, and there were—yeas 95, nays none,

absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Hanna, Howell, Jennings, Pritt and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the bill (Com. Sub. for H. B. 4613) passed.

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

Com. Sub. for H. B. 4614, Providing optional retirement service credit for unused accrued annual or sick leave days for municipal police and firefighters; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 268)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Howell, Jennings, Pritt and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the bill (Com. Sub. for H. B. 4614) passed.

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

Com. Sub. for H. B. 4657, Creating the Critical Mineral Investment Tax Credit Act of 2022; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 269)**, and there were—yeas 90, nays 6, absent

and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Fleischauer, Fluharty, Hardy, Hornbuckle, Pushkin and Walker.

Absent and Not Voting: Howell, Jennings, Pritt and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the bill (Com. Sub. for H. B. 4657) passed.

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

Com. Sub. for H. B. 4660, Establishing the status of beds when an intermediate care facility for individuals with intellectual disabilities closes; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

On motion of Delegate Rohrbach, the bill was amended on page 1, line 13, by striking, "*Provided*, That when an existing intermediate care facility for individuals with intellectual disabilities voluntarily or involuntarily permanently closes, as determine by the Health Care Authority, those beds shall revert to the Health Care Authority to be redistributed to another provider that has not received any citations related to the health, safety, welfare, or clinical treatment of a consumer in the past 12 months"

And inserting in lieu thereof the following:

"*Provided*, That when an existing intermediate care facility for individuals with intellectual disabilities voluntarily or involuntarily permanently closes, as determine by the Health Care Authority, those beds shall revert to the Health Care Authority to be redistributed to another provider as determined by a Health Authority Care policy"

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 270)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Howell, Jennings, Pinson, Pritt and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the bill (Com. Sub. for H. B. 4660) passed.

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

On this question, the yeas and nays were taken **(Roll No. 271)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Howell, Jennings, Pinson, Pritt and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Presiding Officer declared the bill (Com. Sub. for H. B. 4660) takes effect from its passage.

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

Com. Sub. for H. B. 4662, Relating to licensure of Head Start facilities in this state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 272)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Howell, Jennings, Pinson, Pritt and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the bill (Com. Sub. for H. B. 4662) passed.

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

On this question, the yeas and nays were taken **(Roll No. 273)**, and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Howell, Jennings, Pritt and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4662) takes effect from its passage.

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

H. B. 4827, Relating to the promotion and development of public-use vertiports; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 274)**, and there were—yeas 91, nays 4, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Doyle, Hardy, J. Kelly and Wamsley.

Absent and Not Voting: Bridges, Howell, Jennings, Pritt and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Presiding Officer declared the bill (H. B. 4827) passed.

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

On this question, the yeas and nays were taken **(Roll No. 275)**, and there were—yeas 92, nays 3, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Doyle, Hardy and J. Kelly.

Absent and Not Voting: Bridges, Howell, Jennings, Pritt and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Presiding Officer declared the bill (H. B. 4827) takes effect from its passage.

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

Second Reading

Com. Sub. for S. B. 419, Establishing pilot project to evaluate impact of certain post-substance use disorder residential treatments; on second reading, coming up in regular order, was, at the request of Delegate Summers, and by unanimous consent, postponed one day.

Com. Sub. for H. B. 2733, Relating to the establishment of a Combat Action Badge and Combat Action Ribbon special registration plates; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2838, Authorize the ordering of restitution to the state for reimbursement of costs incurred for misuse of public funds, and to create the State Auditor's Public Integrity and Fraud Fund for use of said funds; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4012, Prohibiting the showing of proof of a COVID-19 vaccination; on second reading, coming up in regular order, was read a second time.

Delegates Lovejoy and Pushkin moved to amend the bill on page 1, section 4b, line 13, after the words "not apply", by striking out the period, inserting a colon and the following proviso: "*Provided, however*, That this prohibition does not apply to any local government owned facility that is leased to a private entity where the local governmental unit primarily serves as a property owner receiving rental payments."

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

The yeas and nays having been ordered, they were taken **(Roll No. 276)**, and there were—yeas 61, nays 32, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Booth, Burkhammer, Clark, Conley, Crouse, Dean, Ferrell, Foster, Gearheart, Hamrick, Hanna, Holstein, Horst, D. Jeffries, J. Jeffries, Kessinger, Kimble, Kimes, Longanacre, Maynard, Mazzocchi, McGeehan, Paynter, Phillips, Queen, Reynolds, Riley, Rowan, Steele, Wamsley and B. Ward.

Absent and Not Voting: Bates, Bridges, Howell, Jennings, Pritt, Westfall and Hanshaw (Mr. Speaker).

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

The bill was then ordered to engrossment and third reading.

H. B. 4064, Allowing antique car license plates for cars over 10,000lbs; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4071, Mask and Quarantine Option For Parents and Faculty; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4089, Require certain coverage and reimbursement for a person diagnosed with hypertension; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4285, Relating to real estate appraiser licensing board requirements; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4317, Relating to health insurance for living organ donors; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4377, To update the involuntary commitment process; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Rohrbach, the bill was amended on page 7, line 150, by striking, "Evaluations shall be conducted in person, and only if such an in person evaluation is not possible, than an evaluation may be conducted electronically."

And, inserting in lieu thereof, "Evaluations shall be conducted in person, unless an in-person evaluation would create a substantial delay to the resolution of the matter, then the evaluation may be conducted electronically."

And,

On page 9, line 34, by striking "to determine whether the individual meets involuntary hospitalization criteria shall be conducted in person. Evaluations may be conducted electronically if they are available, if they are not clinically contraindicated, and if an in-person evaluation would create a substantial delay to the resolution of the matter,"

And, inserting in lieu thereof, "to determine whether the individual meets involuntary hospitalization criteria shall be conducted in person unless an in person evaluation would create a

substantial delay to the resolution of the matter, then the evaluation may be conducted electronically,"

And,

On page 15, line 9, by striking the period and inserting a comma.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4393, To increase the managed care tax if the managed care organization receives a rate increase; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4441, Creating a Class M air rifle stamp; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4450, Removing the $0.50 fee charged and deposited in the Combined Voter Registration and Driver's Licensing Fund for each driver's license issued by the Department of Motor Vehicles; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4466, Relating to School Building Authority's review of school bond applications; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4482, Relating to removing the statutory limit of $300,000.00 for the Environmental Laboratory Certification Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4499, Relating to making the procurement process more efficient by modifying and updating outdated processes and requirements; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4502, Establishing the BUILD WV Act; on second reading, coming up in regular order, was read a second time.

Delegate Young moved to amend the bill on page 21, section 16, line 40, by striking out the word "and" and inserting in lieu thereof, the following:

"(10) Whether the proposed project demonstrates that the project will meet the immediate future needs of the area; and"

And,

To renumber the subsequent sentence accordingly.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4511, To make numerous amendments to modernize and increase efficiencies in the administration of the West Virginia Unclaimed Property Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4553, To clarify the application of zoning requirements to exempt wholesale generators; on second reading, coming up in regular order, was read a second time.

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

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4560, Relating generally to motor vehicle dealers, distributors, wholesalers and manufacturers; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4563, Provide for a license plate for auto mechanics; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4570, To allow veterinary telehealth in West Virginia with out of state providers; on second reading, coming up in regular order, was read a second time.

Delegate Dean moved to amend the bill on page 1, section 30-10-24, line 13, after the word "patient;" by striking the word "transfer" and inserting in lieu thereof the words "maintenance of";

On page 1, section 30-10- 24, line 17, after the word "medicine" by striking out the words "and/or technology";

On page 2, section 30-10- 24, line 29, after the word "of" by striking out the words "up to" and inserting in lieu thereof the words "at least";

On page 2, section 30-10- 24, line 32, after the word "services" by inserting the words "The veterinary care professional shall perform an in person exam within the 12 months prior, and at least every 12 months thereafter, or the telehealth service shall no longer be available to the patient.";

On page 2, section 30-10- 24, line 34, after the word "or" by striking out the words "other caretaker" and inserting in lieu thereof the words "owner's advocate";

On page 2, section 30-10- 24, line 34, after the word "animal" by striking out the words "agrees to follow the veterinarian's instructions;" and inserting in lieu thereof the words "consents to the veterinarian's treatment plan";

On page 2, section 30-10- 24, line 39, after the word "kept" by changing the period to a comma, then beginning a new paragraph, designated paragraph (C), to read as follows: "(C) In the event of an imminent, life-threatening emergency veterinary care may be provided in this State via telehealth services without an existing veterinarian-client-patient relationship or an in-person visit within 12 months.";

On page 3, section 30-10- 24, line 49, after the word "of" by striking out the word "telemedicine" and inserting in lieu thereof the word "telehealth";

On page 3, section 30-10- 24, line 54, after the word "board;" by striking out the word "and";

On page 3, section 30-10- 24, line 55, after the word "of" by striking out the word "telemedicine" and inserting in lieu thereof the word "telehealth";

On page 3, section 30-10- 24, line 55, after the word "telemedicine" by changing the period to a semicolon, inserting the word "and", then beginning a new paragraph, designated paragraph (D), to read as follows: "(D) Patient medical records must meet the requirements as specified in the Standards of Practice Rules.";

On page 3, section 30-10- 24, line 62, after the word "thereunder;" by striking out the word "and";

On page 3, section 30-10- 24, line 62, after the word "processes" by changing the period to a semicolon, inserting the word "and", then beginning a new paragraph, designated paragraph (B), to read as follows: "(B) The standard of care for providing veterinary care in the State of West Virginia via telehealth services by a registrant or licensed veterinarian shall be the same as for in-person care."; and

On page 3, section 30-10- 24, line 63, by changing the paragraph designation "(B)" to "(C)".

The bill was then ordered to engrossment third reading.

Com. Sub. for H. B. 4600, Making it a felony for a "Person in a Position of Trust" to assault, batter, or verbally abuse a child, or neglect to report abuse they witness; on second reading, coming up in regular order, was read a second time.

Delegate Fluharty moved to amend the bill on page 1, following the enacting clause, by inserting the following:

"CHAPTER 18. EDUCATION.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE

§18-8-1. COMPULSORY SCHOOL ATTENDANCE; EXEMPTIONS.

(a) Exemption from the requirements of compulsory public school attendance established in §18-8-1a of this code shall be made on behalf of any child for the causes or conditions set forth in this section. Each cause or condition set forth in this section is subject to confirmation by the attendance authority of the county. A child who is exempt from compulsory school attendance under this section is not subject to prosecution under §18-8-2 of this code, nor is such a child a status offender as defined by §49-1-202 of this code.

(b) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to instruction in a private, parochial or other approved school, are met. The instruction shall be in a school approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of this code. In all private, parochial or other schools approved pursuant to this subsection it is the duty of the principal or other person in control, upon the request of the county superintendent, to furnish to the county board such information and records as may be required with respect to attendance, instruction and progress of students enrolled.

(c) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of either subdivision (1) or subdivision (2) of this subsection, both relating to home instruction, are met.

(1) The instruction shall be in the home of the child or children or at some other place approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of this code: *Provided*, That because disabled and very young children are particularly venerable to abuse and neglect, the county board may not authorize instruction of a disabled or any other child in the home if there is a pending child abuse or neglect investigation pursuant to §49-2-801 *et seq.* of this code against either custodial parent or a person instructing the child, or if either custodial parent or a person instructing the child has ever been convicted of

domestic violence pursuant to §48-27-101 *et seq.* of this code or child abuse or neglect pursuant to §61-8D-1 *et seq.* of this code. If the request for home instruction is denied by the county board, good and reasonable justification for the denial shall be furnished in writing to the applicant by the county board. The instruction shall be conducted by a person or persons who, in the judgment of the county superintendent and county board, are qualified to give instruction in subjects required to be taught in public elementary schools in the state. The person or persons providing the instruction, upon request of the county superintendent, shall furnish to the county board information and records as may be required periodically with respect to attendance, instruction and progress of students receiving the instruction. The state board shall develop guidelines for the home schooling of special education students including alternative assessment measures to assure that satisfactory academic progress is achieved.

(2) The child meets the requirements set forth in this subdivision: *Provided,* That the county superintendent may, after a showing of probable cause, seek from the circuit court of the county an order denying home instruction of the child. The order may be granted upon a showing of clear and convincing evidence that the child will suffer neglect in his or her education or that there are other compelling reasons to deny home instruction.

(A) Upon commencing home instruction under this section the parent of a child receiving home instruction shall present to the county superintendent or county board a notice of intent to provide home instruction that includes the name, address, and age of any child of compulsory school age to be instructed and assurance that the child shall receive instruction in reading, language, mathematics, science and social studies and that the child shall be assessed annually in accordance with this subdivision. The person providing home instruction shall notify the county superintendent upon termination of home instruction for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing home instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: *Provided,*

That if a child is enrolled in a public school, notice of intent to provide home instruction shall be given on or before the date home instruction is to begin.

(B) The person or persons providing home instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(C) Annually, the person or persons providing home instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(i) The child receiving home instruction takes a nationally normed standardized achievement test published or normed not more than ten years from the date of administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science and social studies. The child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(ii) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(iii) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress

in the areas of reading, language, mathematics, science and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(iv) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent.

(D) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing home instruction shall initiate a remedial program to foster acceptable progress. The county board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of home schooling. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

(E) The parent or legal guardian shall submit to the county superintendent the results of the academic assessment of the child at grade levels three, five, eight and 11, as applicable, by June 30 of the year in which the assessment was administered.

(3) This subdivision applies to both home instruction exemptions set forth in subdivisions (1) and (2) of this subsection. The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing home instruction. Any child receiving home instruction may upon approval of the county board exercise the option to attend any class offered by the county board as the person or persons providing home instruction may consider appropriate subject to normal registration and attendance requirements.

(d) A child is exempt from the compulsory school attendance requirement set forth in section one-a of this article if the requirements of this subsection, relating to physical or mental incapacity, are met. Physical or mental incapacity consists of incapacity for school attendance and the performance of school work. In all cases of prolonged absence from school due to incapacity of the child to attend, the written statement of a licensed physician or authorized school nurse is required. Incapacity shall be narrowly defined and in any case the provisions of this article may not allow for the exclusion of the mentally, physically, emotionally or behaviorally handicapped child otherwise entitled to a free appropriate education.

(e) A child is exempt from the compulsory school attendance requirement set forth in section one-a of this article if conditions rendering school attendance impossible or hazardous to the life, health or safety of the child exist.

(f) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code upon regular graduation from a standard senior high school or alternate secondary program completion as determined by the state board.

(g) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this coe if the child is granted a work permit pursuant to the subsection. After due investigation the county superintendent may grant work permits to youths under the termination age designated in §18-8-1a of this coe, subject to state and federal labor laws and regulations. A work permit may not be granted on behalf of any youth who has not completed the eighth grade of school.

(h) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if a serious illness or death in the immediate family of the child has occurred. It is expected that the county attendance director will ascertain the facts in all cases of such absences about which information is inadequate and report the facts to the county superintendent.

(i) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to destitution in the home, are met. Exemption based on a condition of extreme destitution in the home may be granted only upon the written recommendation of the county attendance director to the county superintendent following careful investigation of the case. A copy of the report confirming the condition and school exemption shall be placed with the county director of public assistance. This enactment contemplates every reasonable effort that may properly be taken on the part of both school and public assistance authorities for the relief of home conditions officially recognized as being so destitute as to deprive children of the privilege of school attendance. Exemption for this cause is not allowed when the destitution is relieved through public or private means.

(j) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to church ordinances and observances of regular church ordinances, are met. The county board may approve exemption for religious instruction upon written request of the person having legal or actual charge of a child or children. This exemption is subject to the rules prescribed by the county superintendent and approved by the county board.

(k) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to alternative private, parochial, church or religious school instruction, are met. Exemption shall be made for any child attending any private school, parochial school, church school, school operated by a religious order or other nonpublic school which elects to comply with the provisions of §18-28-1 *et seq.* of this code.

(l) Completion of the eighth grade does not exempt any child under the termination age designated in §18-8-1a of this code from the compulsory attendance provision of this article.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT."

Delegate Mazzocchi arose to inquire of the Presiding Officer as to the germaneness of the amendment.

The Presiding Officer ruled that the amendment was not germane to the bill.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4608, To require the State Fire Commission to propose minimum standards for persons to be certified as probationary status volunteer firefighters; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4616, Remove sales tax on gun safes and certain firearm safety devices; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4642, Relating to pecuniary interests of county and district officers, teachers and school officials in contracts; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4647, Relating to the Board of Funeral Service Examiners; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4688, Relating to Emergency Medical Services Retirement System Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4692, To revise the West Virginia Tax Increment Financing Act ; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4753, Prohibiting locating certain homeless facilities near schools and certain daycares; on second

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

Com. Sub. for H. B. 4756, Relating to authorizing municipalities to create pension funding programs to reduce the unfunded liability of certain pension and relief funds; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4778, Permit banks to transact business with any one or more fiduciaries on multiple fiduciary accounts; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4779, Permit banks the discretion to choose whether to receive deposits from other banks, savings banks, or savings and loan associations when arranging for the re-deposits of county, municipal, and state funds; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4787, Creating the Highly Automated Motor Vehicle Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4794, Requiring counties provide fiscal information for State Auditor's WV Checkbook website; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4829, Modifying definitions of certain school cafeteria personnel; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

S. B. 499, Authorizing legislative rules for School Building Authority,

H. J. R. 104, Providing Term Limits for certain Constitutional Officers,

H. B. 2300, Including Family Court Judges in the Judges' Retirement System,

H. B. 2751, Modernize the process for dissolution of municipal corporations in this State,

H. B. 3073, Relating to the West Virginia Emergency School Food Act,

Com. Sub. for H. B. 4001, Generally relating to broadband,

Com. Sub. for H. B. 4020, Relating to reorganizing the Department of Health and Human Resources,

Com. Sub. for H. B. 4021, Relating to the Medical Student Loan Program,

Com. Sub. for H. B. 4050, Defining terms related to livestock trespassing,

Com. Sub. for H. B. 4066, Distracted Driving Act,

Com. Sub. for H. B. 4293, Prohibiting mass mailing of absentee ballots,

Com. Sub. for H. B. 4320, Relating to natural immunity or antibodies to any illness to be treated as equal or better to vaccine induced immunity,

Com. Sub. for H. B. 4336, Providing for the valuation of natural resources property,

Com. Sub. for H. B. 4353, Relating to On Cycle Elections - Voter Turnout Act,

Com. Sub. for H. B. 4370, Clarifying that the Statewide Interoperability Executive Committee is responsible to develop, update, and implement policies regarding the Statewide Interoperable Radio Network,

Com. Sub. for H. B. 4373, To exclude fentanyl test strips from the definition of drug paraphernalia,

Com. Sub. for H. B. 4439, Creating a special revenue account known as the Military Authority Reimbursable Expenditure Fund,

H. B. 4463, To increase the compensation members of the State Athletic Commission may receive for their attendance and participation in the commission's public meetings,

Com. Sub. for H. B. 4467, Requiring early childhood classroom assistant teacher in certain grade levels and enrollment levels in said grade levels,

Com. Sub. for H. B. 4497, Extending the regional jail per diem through July 1, 2023,

Com. Sub. for H. B. 4565, To exempt temporary employees and employees of the Higher Education Policy Commission from automatic enrollment into the state's 457 (b) plan,

H. B. 4571, Modifying foundation allowance to account for transportation by electric powered buses,

Com. Sub. for H. B. 4580, To authorize retired bus operators to work in areas of critical need,

H. B. 4623, Uniform Common Interest Ownership Act,

Com. Sub. for H. B. 4629, Relating to procedures for certain actions against the state,

Com. Sub. for H. B. 4826, Relating to e-sports,

H. B. 4840, Relating to Office of Miners Health,

H. B. 4842, Relating to obscene matter to minors,

H. B. 4843, Relating to locality pay for correctional officers,

H. B. 4844, Relating to public school personnel,

H. B. 4845, Establishing the Katherine Johnson Academy,

H. B. 4846, Relating to flying under the influence and other aviation offenses,

H. B. 4847, Relating to missing persons generally,

H. B. 4848, Relating to nonintoxicating beer,

And,

H. B. 4849, Relating to bankruptcy.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Howell, Jennings and Hanshaw (Mr. Speaker).

Miscellaneous Business

At 2:32 p.m., the House of Delegates adjourned until 9:00 a.m., Tuesday, March 1, 2022.

Tuesday, March 1, 2022

FORTY-NINTH DAY

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

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

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

The Clerk proceeded to read the Journal of Monday, February 28, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that Com. Sub. for H. B. 4089 and H. B. 4482 on Third Reading, Special Calendar, had been transferred to the House Calendar; and, Com. Sub. for S. B. 419, S. B. 499, H. B. 4623 and H. B. 4843 on Second Reading, Special Calendar, had been moved to the House Calendar.

Committee Reports

Delegate Storch, Chair of the Committee on Pensions and Retirement, submitted the following report, which was received:

Your Committee on Pensions and Retirement has had under consideration:

S. B. 442, Relating to WV Public Employee Retirement System,

Com. Sub. for S. B. 443, Including police and firefighter as electors of trustees for certain pension funds,

Com. Sub. for S. B. 641, Requiring Consolidated Public Retirement Board to set contributions to Deputy Sheriff's Retirement System,

S. B. 669, Relating to contribution levels of certain judges who participate in retirement system,

And,

S. B. 670, Permitting newly hired 911 personnel to participate in Emergency Medical Services Retirement System,

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

In accordance with the former direction of the Speaker, the bills (S. B. 442, Com. Sub. for S. B. 443, Com. Sub. for S. B. 641, S. B. 669 and S. B. 670) were each referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration:

H. C. R. 31, Applying to the Congress of the United States to call a convention of states,

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

In accordance with the former direction of the Speaker, the resolution (H. C. R. 31) was referred to the Committee on Rules.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 520, Increasing financial penalties for ransomware attacks,

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

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 524, Placing duties and functions of certain boards and commissions under Department of Arts, Culture, and History,

Com. Sub. for S. B. 537, Providing additional firefighters and security guards for National Guard,

S. B. 597, Relating to PSC underground facilities damage prevention and one-call system,

And,

Com. Sub. for S. B. 598, Establishing partnerships and aid for at-risk veterans to combat suicide,

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

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 523, Transferring oversight of Jobs Investment Trust Fund to WV Economic Development Authority,

And,

S. B. 542, Transferring Broadband Enhancement Council from Department of Commerce to Department of Economic Development,

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

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

Your Committee on Education has had under consideration:

S. B. 22, Relating to exempting certain organizations from property taxation,

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

In accordance with the former direction of the Speaker, the bill (S. B. 22) was referred to the Committee on Finance.

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

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 246, Requiring newly constructed public schools and public schools with major improvements to have water bottle filling stations,

And,

Com. Sub. for S. B. 261, Requiring video cameras in certain special education classrooms,

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

In accordance with the former direction of the Speaker, the bills (Com. Sub. for S. B. 246 and Com. Sub. for S. B. 261) were each referred to the Committee on Finance.

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

Your Committee on Technology and Infrastructure has had under consideration:

H. C. R. 5, James "Big Jim" Shaffer Memorial Bridge,

H. C. R. 39, Donald L. Stuckey Memorial Bridge,

H. C. R. 56, Roy Lee Shamblin Memorial Bridge,

Com. Sub. for S. C. R. 28, US Army PVT Garland Lee Loudermilk Memorial Bridge,

And,

Com. Sub. for S. C. R. 29, Nitro WW I Memorial Bridge,

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

In accordance with the former direction of the Speaker, the bills (H. C. R. 5, H. C. R. 39, H. C. R. 56, Com. Sub. for S. C. R. 28 and Com. Sub. for S. C. R. 29) were each referred to the Committee on Rules.

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

Your Committee on Technology and Infrastructure has had under consideration:

S. B. 91, Creating "Choose Life" special registration plate supporting adoption,

And,

S. B. 129, Making it unlawful for public utility to prohibit customers from hiring contractors to construct, install, or maintain connections to public utility,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended, but that they first be referred to the Committee on Government Organization.

In accordance with the former direction of the Speaker, the bills (S. B. 91 and S. B. 129) were each referred to the Committee on Government Organization.

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

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 216, Creating Student Journalist Press Freedom Restoration Act, And reports the same back with the recommendation that it do pass, and with the recommendation that second reference to the Committee on the Finance be dispensed with, but that it be referred to the Committee on the Judiciary.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 216) to the Committee on the Finance was abrogated.

Pursuant to House Rule 80, the Speaker then referred the bill to the Committee on the Judiciary.

Messages from the Executive

A communication from His Excellency, the Governor, advised that on February 28, 2022, he approved **Com. Sub. for H. B. 3312**.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for S. B. 71 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5J-1, §21-5J-2, §21-5J-3, and §21-5J-4, all relating to prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, local resolutions, or other

legal requirements; providing a short title; defining terms; prohibiting political subdivisions from adopting, enforcing, or administering certain local requirements; clarifying effect on prior written agreements; providing that any prohibited local requirement in effect prior to the effective date is void; clarifying effect on lawfully enacted zoning ordinances; clarifying that article does not apply to municipal solid waste or recycling collection programs; clarifying that article does not apply to employees of a political subdivision; clarifying effect on the West Virginia Alcohol and Drug-Free Workplace Act and certain similar requirements; and clarifying that any provision of article that jeopardizes receipt of federal funding to political subdivision is deemed inoperative"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2022, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 420 - "A Bill to amend and reenact §29-3E-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-3-14d and §33-3-33 of said code, all relating generally to the distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments; defining terms; providing the method of allocation and distribution for proceeds of the fireworks safety fee deposited in the Fire Protection Fund; eliminating obsolete language; increasing certain policy surcharge; establishing effective date for policy surcharge increase; requiring the State Fire Marshal provide certain information to the State Treasurer; and clarifying the requirements for distribution of funds in the Fire Protection Fund"; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 466 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §25-1A-9, relating to limitations on civil actions or appeals brought by inmates by prohibiting an inmate to proceed in forma pauperis in civil actions when an inmate has, on three or more prior occasions, had a civil action or appeal dismissed on the grounds that the action was frivolous, malicious, or failed to state a claim upon which relief may be granted, unless permitted by a circuit court; exempting civil actions where an inmate alleges imminent danger of serious physical injury and states with particularity the factual basis of the assertion; and further exempting actions where the inmate seeks habeas relief relating solely to the propriety of custody"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 522 - "A Bill to amend and reenact §5A-1-11 of the Code of West Virginia, 1931, as amended, relating to combining the offices of the West Virginia State Americans with Disabilities Act Office and the West Virginia Equal Employment Opportunity Office within the Department of Administration; creating the position of State Equal Opportunity Coordinator; establishing qualifications for the position; setting forth how the State Equal Opportunity Coordinator is selected; outlining scope of responsibilities; removing the fee for service model and associated fund; and making other technical changes"; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 536 - "A Bill to repeal §60A-4-415 of the Code of West Virginia, 1931, as amended; to amend and reenact §60A-4-401 and §60A-4-409 of said code; and to amend said code

by adding thereto a new section, designated §60A-4-418, all relating generally to controlled substance criminal offenses; increasing the penalty for manufacture, delivery, or possession with intent to manufacture or deliver fentanyl; creating the offenses of counterfeit fentanyl or adulterating another controlled substance with fentanyl; creating the offense of using minors to illegally manufacture, distribute, or possess with intent to distribute; and establishing criminal penalties"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 582 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-33-1, §29-33-2, §29-33-3, and §29-33-4; and to amend said code by adding thereto a new article, designated §29-34-1, §29-34-2, §29-34-3, and §29-34-4, all relating to creating the West Virginia Workforce Resiliency Act and Recovery and Hope Act; establishing the West Virginia Workforce Resiliency Office in the Office of the Governor; establishing the position of the West Virginia Workforce Resiliency Officer; setting forth the authority and duties of the West Virginia Workforce Resiliency Officer; allowing for the West Virginia Workforce Resiliency Officer to hire staff; creating the State Recovery and Hope Office, and providing powers thereof; providing for the appointment of the State Recovery and Hope Officer; and authorizing the State Recovery and Hope Officer to act"; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

S. B. 603 - "A Bill to amend and reenact §30-3-10 of the Code of West Virginia, 1931, as amended, relating to prohibiting licensure or renewal of licensure when the applicant or licensee has

certain unresolved disciplinary proceedings pending in another jurisdiction"; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

S. B. 638 - "A Bill to amend and reenact §24-2H-6 of the Code West Virginia, 1931, as amended, relating to the Public Service Commission; and changing hearing location and customer notice provisions in a distressed or failing utility and formal proceeding."

At the respective requests of Delegate Summers, and by unanimous consent, reference of the bill (S. B. 638) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

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

Com. Sub. for S. B. 694 - "A Bill to amend and reenact §22C-9-1, §22C-9-2, §22C-9-3, §22C-9-4, and §22C-9-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22C-9-7a, all relating to oil and gas conservation; modifying the membership of the Oil and Gas Conservation Commission; expanding duties of the commission; providing further declaration of public policy and legislative findings; defining terms; establishing a horizontal well unit application process; requiring certain conditions be met prior to approval of an application; providing for a hearing on the application; setting out factors for considering in the hearing; providing for notice; providing for an independent third party review; setting forth time frames; providing for a horizontal well unit order; defining order terms; providing for options for non-leased mineral interest owners; providing options for nonconsenting operators; allowing for modification of the

horizontal well unit order; providing for compensation for unknown and unlocatable mineral interest owners; establishing a process for surface owners to acquire mineral interest of unknown or unlocatable interest owners; and modifying rulemaking"; which was referred to the Committee on Energy and Manufacturing then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 698 - "A Bill to amend and reenact §9A-1-2 of the Code of West Virginia, 1931, as amended, relating to the number and selection of members for the Governor's Veterans Council"; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 701 - "A Bill to amend and reenact §18-19-2 of the Code of West Virginia, 1931, as amended, relating to the eligibility of an active-duty service member's child or spouse for tuition-free education through the War Orphan Education Program"; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 713 - "A Bill to amend and reenact §22-1-15 of the Code of West Virginia, 1931, as amended, relating to removing the statutory limit of $300,000 for the Environmental Laboratory Certification Fund; and allowing field tests and remote monitoring or testing equipment to be certified by the laboratory certification program."

At the respective requests of Delegate Summers, and by unanimous consent, reference of the bill (S. B. 713) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 714 - "A Bill to amend and reenact §22A-6-7 of the Code of West Virginia, 1931, as amended, relating to tie votes by the Coal Mine Safety and Technical Review Committee; and providing that the Director of the Office of Miners' Health, Safety, and Training or his or her designee may vote to break the tie"; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

S. C. R. 53 - "Requesting the Office of Miners' Health, Safety, and Training study the feasibility of creating within it a division dedicated to the protection of health, safety, and training of all energy producing facilities of this state."

Whereas, The Director of the Office of Miners' Health, Safety, and Training shall present to the Joint Committee on Government and Finance during the 2022, legislative interim sessions the feasibility of dedicating a division of his or her office to the purpose of protecting of health, safety, and training of persons employed at or within all energy producing facilities of this state, and also to protect and preserve energy producing property and property used in connection therewith; and

Whereas, The goal of the Office of Miners' Health, Safety, and Training is currently to protect the safety and health of persons employed within or at coal mining facilities, only; and

Whereas, The goal of the Legislature should be to protect the safety and health of all persons employed at any facility which produces energy from any source, be it coal, oil, natural gas, solar, wind, nuclear, hydroelectric, or any other source; and

Whereas, In the information provided, the Director of the Office of Miners' Health, Safety, and Training shall include the following: (1) Feasibility of a new division within his or her office dedicated to the protection of the safety, health, and training of persons employed within or at all facilities in all energy sectors; (2) funding necessary; (3) education necessary and inspector certification specifications as any would differ from those already in place for coal mines; (4) a vision and mission statement for a new division which would accomplish this purpose; (5) a list of what the Office of Miners' Health, Safety, and Training is doing now regarding the coal industry that could be easily transitioned to other energy producing sectors; (6) a list of new powers and duties the Office of Miners' Health, Safety, and Training would need to accomplish its goal of protecting the health, safety, and training of persons employed at or within energy producing facilities which are not coal mining facilities; (7) a plan for the Legislature's consideration of a new division to empower the current Office of Miners' Health, Safety, and Training in the resolution's purpose that comprehensively considers the items identified herein; (8) any other considerations; and (9) a date certain that any new division could be transitioned into the Office of Miners' Health, Safety, and Training, should legislation be passed to make it possible in the 2023 Legislative Session; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Office of Miners' Health, Safety, and Training to study the feasibility of creating within it a division dedicated to the protection of health, safety, and training of all energy producing facilities of this state; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Director of the Office of Miners' Health, Safety, and Training, requesting his or her cooperation.

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance"; which was referred to the Committee on Energy and Manufacturing then Rules.

Special Calendar

Third Reading

Com. Sub. for H. B. 2733, Relating to the establishment of a Combat Action Badge and Combat Action Ribbon special registration plates; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 277)**, and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Hamrick, Hott, Howell, Jennings, Linville, Pinson and Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2733) passed.

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

Com. Sub. for H. B. 2838, Authorize the ordering of restitution to the state for reimbursement of costs incurred for misuse of public funds, and to create the State Auditor's Public Integrity and Fraud Fund for use of said funds; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 278)**, and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Hamrick, Hott, Howell, Jennings, Linville, Pinson and Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2838) passed.

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

Com. Sub. for H. B. 4012, Prohibiting the showing of proof of a COVID-19 vaccination; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 279)**, and there were, including pairs—yeas 80, nays 16, absent and not voting 4, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Hott	Nay: Pushkin
Yea: Pinson	Nay: Hornbuckle

Nays: Diserio, Doyle, Fleischauer, Fluharty, Griffith, Hansen, Pethtel, Reed, Rowe, Skaff, Thompson, Walker, Williams and Zukoff.

Absent and Not Voting: Hamrick, Howell, Jennings and Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4012) passed.

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

H. B. 4064, Allowing antique car license plates for cars over 10,000lbs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 280)**, and there were—yeas 91, nays 1, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Riley.

Absent and Not Voting: Bates, Doyle, Hamrick, Hott, Howell, Jennings, Pinson and Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4064) passed.

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

Com. Sub. for H. B. 4071, Mask and Quarantine Option For Parents and Faculty; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 281)**, and there were, including pairs—yeas

80, nays 16, absent and not voting 4, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Hott Nay: Pushkin

Yea: Pinson Nay: Hornbuckle

Nays: Doyle, Evans, Fleischauer, Garcia, Griffith, Hansen, Lovejoy, Pethtel, Rowe, Skaff, Thompson, Walker, Williams and Zukoff.

Absent and Not Voting: Graves, Hamrick, Howell and Jennings.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4071) passed.

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

Com. Sub. for H. B. 4285, Relating to real estate appraiser licensing board requirements; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 282)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Garcia, Hamrick, Hott, Howell, Jennings and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4285) passed.

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

Com. Sub. for H. B. 4317, Relating to health insurance for living organ donors; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 283)**, and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick, Hott, Howell, Jennings, Linville, Pinson and Wamsley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4317) passed.

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

Com. Sub. for H. B. 4377, To update the involuntary commitment process; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 284)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Hamrick, Hott, Howell, Jennings and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4377) passed.

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

Com. Sub. for H. B. 4393, To increase the managed care tax if the managed care organization receives a rate increase; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 285)**, and there were—yeas 87, nays 8, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Horst, J. Jeffries, Kessinger, Kimes, Paynter, Pritt and Young.

Absent and Not Voting: Hamrick, Hott, Howell, Jennings and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4393) passed.

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

Com. Sub. for H. B. 4441, Creating a Class M air rifle stamp; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 286)**, and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick, Hott, Howell, Jennings and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4441) passed.

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

On this question, the yeas and nays were taken **(Roll No. 287)**, and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick, Hott, Howell, Jennings and Pinson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4441) takes effect from its passage.

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

H. B. 4450, Removing the $0.50 fee charged and deposited in the Combined Voter Registration and Driver's Licensing Fund for each driver's license issued by the Department of Motor Vehicles; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 288)**, and there were—yeas 86, nays 8, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Barach, Diserio, Doyle, Fleischauer, Fluharty, Hansen, Walker and Young.

Absent and Not Voting: Clark, Hamrick, Hott, Howell, Jennings and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4450) passed.

Delegate Summers moved that the bill take effect July 1, 2022.

On this question, the yeas and nays were taken **(Roll No. 289)**, and there were—yeas 93, nays 1, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Fleischauer.

Absent and Not Voting: Hamrick, Hott, Howell, Jennings, Pinson and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4450) takes effect July 1, 2022.

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

Com. Sub. for H. B. 4466, Relating to School Building Authority's review of school bond applications; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 290)**, and there were—yeas 91, nays 3, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Foster, Gearheart and Hanna.

Absent and Not Voting: Hamrick, Hott, Howell, Jennings, Lovejoy and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4466) passed.

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

Com. Sub. for H. B. 4499, Relating to making the procurement process more efficient by modifying and updating outdated processes and requirements; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 291)**, and there were—yeas 90, nays 4, absent

and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Gearheart, McGeehan, Pushkin and B. Ward.

Absent and Not Voting: Hamrick, Hott, Howell, Jennings, Lovejoy and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4499) passed.

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

Com. Sub. for H. B. 4502, Establishing the BUILD WV Act; on third reading, coming up in regular order, was read a third time.

Delegate Foster requested to be excused from voting on Com. Sub. for H. B. 4502 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class possibly to be affected and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 292)**, and there were—yeas 81, nays 14, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Fast, Gearheart, Hardy, Horst, Kimble, Longanacre, Martin, Mazzocchi, McGeehan, Nestor, Paynter, Pritt, B. Ward and G. Ward.

Absent and Not Voting: Hamrick, Hott, Howell, Jennings and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4502) passed.

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

Com. Sub. for H. B. 4511, To make numerous amendments to modernize and increase efficiencies in the administration of the West Virginia Unclaimed Property Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 293)**, and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick, Hott, Howell, Jennings and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4511) passed.

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

Com. Sub. for H. B. 4553, To clarify the application of zoning requirements to exempt wholesale generators; on third reading, coming up in regular order, with amendments pending, was reported by the Clerk.

On motion of Delegate B. Ward, the bill was on page 5, section 2, line 116, immediately following the word "code", by striking the period and inserting the following:

": *Provided*, That an exempt wholesale generator does not mean and shall not include any entity using wind power to generate electricity."

Delegate Doyle moved to amend the bill on page 5, section 2, line 112, following the words "generating facility", by inserting the

words "other than a generating facility that uses solar energy to generate electricity,".

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

The yeas and nays having been ordered, they were taken **(Roll No. 294)**, and there were—yeas 25, nays 68, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Boggs, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Gearheart, Griffith, Hansen, Hornbuckle, Lovejoy, Paynter, Pethtel, Phillips, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young, Zatezalo and Zukoff.

Absent and Not Voting: Bridges, Hamrick, Hott, Howell, Jennings, Longanacre and Pinson.

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

Delegate Doyle moved to amend the bill on page 5, section 2, line 112, following the words "generating facility", by inserting the words "a generating facility that uses coal, natural gas or nuclear power to generate electricity,".

Delegate Doyle asked and obtained unanimous consent to reform the amendment as follows:

On page 5, section 2, line 112, following the words "generating facility" by inserting the words "that uses coal, natural gas or nuclear power to generate electricity,".

On the question of adoption of the reformed amendment, the same was put and was rejected.

Delegate Doyle moved to amend the bill on page 6, section 3, line 10, following the words "zoning district" by striking out the period and inserting the following "in any county that has adopted partial or total zoning on or after July 1, 2024."

On the question of adoption of the amendment, the same was put and was rejected.

Delegate Doyle moved to amend the bill on page 5, section 2, line 110, following the word "entity", by inserting the following:

"where the boundary of the project site is not located within 2,500 feet from the boundary of any lot within a residential subdivision of 5 or more lots on file with the clerk of the county at the time of application and".

On the question of adoption of the amendment, the same was put and was rejected.

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

Whereupon,

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

There being no further amendments, and having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 295)**, and there were—yeas 52, nays 42, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Barach, Barnhart, Boggs, Bridges, Conley, Crouse, Dean, Diserio, Doyle, Evans, Fast, Fluharty, Foster, Garcia, Gearheart, Griffith, Hansen, Hornbuckle, Horst, Longanacre, Lovejoy, Mallow, Martin, McGeehan, Miller, Nestor, Pack, Paynter, Phillips, Pushkin, Reynolds, Rowe, Skaff, Smith, Statler, Summers, Thompson, Toney, Walker, Williams, Zatezalo and Zukoff.

Absent and Not Voting: Fleischauer, Hott, Howell, Jennings, Pinson and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4553) passed.

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

At 12:26 p.m., on motion of Delegate Summers, the House of Delegates recessed until 1:30 p.m.

* * * * * * *

Afternoon Session

* * * * * * *

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

Reordering of the Calendar

During the recess, Com. Sub. for H. B. 2910 on Second Reading, House Calendar, was transferred to the Special Calendar by the Committee on Rules.

Special Calendar

Third Reading

- continued -

Com. Sub. for H. B. 4560, Relating generally to motor vehicle dealers, distributors, wholesalers and manufacturers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 296)**, and there were—yeas 84, nays none, absent and not voting 16, with the absent and not voting being as follows:

Absent and Not Voting: Barnhart, Bridges, Cooper, Evans, Ferrell, Gearheart, Haynes, Hott, Howell, Jennings, Longanacre, Maynor, Pinson, Thompson, Toney and Wamsley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4560) passed.

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

Com. Sub. for H. B. 4563, Provide for a license plate for auto mechanics; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 297)**, and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Cooper, Gearheart, Haynes, Hott, Howell, Jennings, Maynor, Pinson, Summers, Toney and Wamsley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4563) passed.

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

Com. Sub. for H. B. 4570, To allow veterinary telehealth in West Virginia with out of state providers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 298)**, and there were—yeas 89, nays none, absent and not voting 11, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Cooper, Gearheart, Hott, Howell, Jennings, Maynor, Pinson, Summers, Toney and Wamsley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4570) passed.

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

Com. Sub. for H. B. 4600, Making it a felony for a "Person in a Position of Trust" to assault, batter, or verbally abuse a child, or neglect to report abuse they witness; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 299)**, and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Pinson, Skaff, Summers and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4600) passed.

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

Com. Sub. for H. B. 4608, To require the State Fire Commission to propose minimum standards for persons to be certified as probationary status volunteer firefighters; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 300)**, and there were—yeas 92, nays none,

absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Pinson, Summers and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4608) passed.

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

Com. Sub. for H. B. 4616, Remove sales tax on gun safes and certain firearm safety devices; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 301)**, and there were, including pairs—yeas 92, nays 1, absent and not voting 7, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Pinson Nay: Doyle

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Summers and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4616) passed.

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

H. B. 4642, Relating to pecuniary interests of county and district officers, teachers and school officials in contracts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 302)**, and there were—yeas 83, nays 8, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Doyle, Fleischauer, Hansen, Pushkin, Rowe, Walker, Young and Zukoff.

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Pack, Pinson, Summers and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4642) passed.

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

H. B. 4647, Relating to the Board of Funeral Service Examiners; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 303)**, and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Pinson, Summers and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4647) passed.

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

Com. Sub. for H. B. 4688, Relating to Emergency Medical Services Retirement System Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 304)**, and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Pinson, Summers and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4688) passed.

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

Com. Sub. for H. B. 4692, To revise the West Virginia Tax Increment Financing Act ; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 305)**, and there were—yeas 77, nays 16, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Barach, Burkhammer, Conley, Doyle, Fleischauer, Hanna, J. Jeffries, Kimble, Longanacre, Martin, McGeehan, Paynter, Pritt, Pushkin, Thompson and Young.

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Pinson and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4692) passed.

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

On this question, the yeas and nays were taken **(Roll No. 306)**, and there were—yeas 80, nays 12, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Doyle, Fleischauer, Hanna, J. Jeffries, Kimble, Longanacre, Martin, McGeehan, Paynter, Pritt, Pushkin and Thompson.

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Pack, Pinson and Toney.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4692) takes effect from its passage.

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

Com. Sub. for H. B. 4753, Prohibiting locating certain homeless facilities near schools and certain daycares; on third reading, coming up in regular order, was reported by the Clerk.

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

Com. Sub. for H. B. 4756, Relating to authorizing municipalities to create pension funding programs to reduce the unfunded liability of certain pension and relief funds; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 307)**, and there were—yeas 89, nays 3, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Foster, Kimes and Thompson.

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Pack, Pinson and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4756) passed.

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

On this question, the yeas and nays were taken **(Roll No. 308)**, and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Dean, Garcia, Gearheart, Hott, Howell, Jennings, Pack, Pinson and Toney.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4756) takes effect from its passage.

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

H. B. 4778, Permit banks to transact business with any one or more fiduciaries on multiple fiduciary accounts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 309)**, and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Garcia, Gearheart, Hott, Howell, Jennings, Pinson and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4778) passed.

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

Com. Sub. for H. B. 4779, Permit banks the discretion to choose whether to receive deposits from other banks, savings banks, or savings and loan associations when arranging for the re-deposits of county, municipal, and state funds; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 310)**, and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bates, Cooper, Gearheart, Hott, Howell, Jennings, Pinson and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4779) passed.

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

Com. Sub. for H. B. 4787, Creating the Highly Automated Motor Vehicle Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 311)**, and there were—yeas 86, nays 7, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Barach, Fleischauer, Garcia, Lovejoy, McGeehan, Pushkin and Walker.

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Pinson and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4787) passed.

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

Com. Sub. for H. B. 4794, Requiring counties provide fiscal information for State Auditor's WV Checkbook website; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 312)**, and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Mallow, Pinson and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4794) passed.

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

H. B. 4829, Modifying definitions of certain school cafeteria personnel; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 313)**, and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Pinson and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4829) passed.

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

Second Reading

H. J. R. 104, Providing Term Limits for certain Constitutional Officers; on second reading, coming up in regular order, was read a second time.

Delegate Garcia moved to amend the resolution on page 1, section 4, lines 24 through 26, following the words "Commissioner of Agriculture.", by striking out the remainder of lines 24 through 26.

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

The yeas and nays having been ordered, they were taken **(Roll No. 314)**, and there were—yeas 20, nays 73, absent and not voting 7, with the yeas, nays, and absent and not voting being as follows:

Yeas: Barach, Boggs, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, McGeehan, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Young and Zukoff.

Nays: Anderson, Barnhart, Barrett, Bates, Booth, Bridges, Brown, Burkhammer, Capito, Clark, Conley, Criss, Crouse, Dean, Ellington, Espinosa, Fast, Ferrell, Forsht, Foster, Graves, Hamrick, Hanna, Hardy, Haynes, Holstein, Honaker, Horst, Householder, D. Jeffries, J. Jeffries, Keaton, D. Kelly, J. Kelly, Kessinger, Kimble, Kimes, Linville, Longanacre, Lovejoy, Mallow, Mandt, Martin, Maynard, Maynor, Mazzocchi, Miller, Nestor, Pack, Paynter, Phillips, Pritt, Queen, Reed, Reynolds, Riley, Rohrbach, Rowan, Smith, Statler, Steele, Storch, Summers, Sypolt, Tully, Wamsley, B. Ward, G. Ward, Westfall, Williams, Worrell, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Pinson and Toney.

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

Delegate Pushkin moved to amend the resolution on page 1, section 4, line 22, by striking out the word "three "and inserting in lieu thereof, the words "two".

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

The yeas and nays having been ordered, they were taken **(Roll No. 315)**, and there were—yeas 23, nays 69, absent and not voting 8, with the yeas, nays, and absent and not voting being as follows:

Yeas: Barach, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Horst, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Young and Zukoff.

Nays: Anderson, Barnhart, Barrett, Booth, Bridges, Burkhammer, Capito, Clark, Conley, Criss, Crouse, Dean, Ellington, Espinosa, Fast, Ferrell, Forsht, Foster, Graves, Hamrick, Hanna, Hardy, Haynes, Holstein, Honaker, Householder, D. Jeffries, J. Jeffries, Keaton, D. Kelly, J. Kelly, Kessinger, Kimble, Kimes, Linville, Longanacre, Mallow, Mandt, Martin, Maynard, Maynor, Mazzocchi, McGeehan, Miller, Nestor, Pack, Paynter, Phillips, Pritt, Queen, Reed, Reynolds, Riley, Rohrbach, Rowan, Smith, Statler, Steele, Storch, Summers, Sypolt, Tully, Wamsley, B. Ward, G. Ward, Westfall, Williams, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Cooper, Gearheart, Hott, Howell, Jennings, Pinson, Toney and Worrell.

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

There being no further amendments, the resolution was ordered to engrossment and third reading.

H. B. 2300, Including Family Court Judges in the Judges' Retirement System; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2751, Modernize the process for dissolution of municipal corporations in this State; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2910, To modify the allowable number of magistrate judges per county; on second reading, coming up in regular order, was read a second time.

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

H. B. 3073, Relating to the West Virginia Emergency School Food Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4001, Generally relating to broadband; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for H. B. 4020, Relating to reorganizing the Department of Health and Human Resources; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Rohrbach, the bill was amended on page 2, line 17, by striking, "July 1, 2023" and inserting in lieu thereof, "January 1, 2023.";

And,

On page 4, line 66, by striking "July 1, 2023" and inserting in lieu thereof, "January 1, 2023,";

And,

On page 5, line 83, by striking "July 1, 2023" and inserting in lieu thereof, "January 1, 2023,";

And,

On page 5, line 98 by striking "August 1, 2023" and inserting in lieu thereof "February 1, 2023.";

And,

On page 5, line 98 after the period by inserting the following:

"The changes made in this subsection and subsection (h) affect the organizational structure and provides for which secretary is the final decision maker for the stated bureaus. Budgetary changes are not effective until July 1, 2023."

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4021, Relating to the Medical Student Loan Program; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4050, Defining terms related to livestock trespassing; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4066, Distracted Driving Act; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Westfall, the bill was amended on page 9, section 15, line 201, immediately following the word "Code;" by striking the word "or" and, inserting in lieu thereof, a new subdivision (6) to read as follows:

"(6) a transportation network company driver while engaged in the service of a transportation network company as those terms are defined in § 17-29-1 *et seq.* of this Code; or"

And,

Renumbering the remaining subdivision accordingly.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4293, Prohibiting mass mailing of absentee ballots; on second reading, coming up in regular order, was read a second time.

Delegate Young moved to amend the bill on page 1, section 5, line 5 by striking out the words "person, including any";

And,

On page 7, section 3, lines 155 through 159, by striking out subdivision (2) in its entirety.

The following amendment, offered by Delegate Capito, was reported by the Clerk, on page 1, section 5, line 5 following the word "State.", by striking the following: "<u>It is unlawful for any person, including any election official, to mail or deliver an application for an absentee ballot to any voter except when specifically requested by that voter.</u>"

Subsequently, at the request of Delegate Young, and by unanimous consent, the bill was advanced to third reading with amendments pending, and the rule was suspended to permit the consideration of the amendments on that reading.

Com. Sub. for H. B. 4320, Relating to natural immunity or antibodies to any illness to be treated as equal or better to vaccine induced immunity; on second reading, coming up in regular order,

was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4336, Providing for the valuation of natural resources property; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4353, Relating to On Cycle Elections - Voter Turnout Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4370, Clarifying that the Statewide Interoperability Executive Committee is responsible to develop, update, and implement policies regarding the Statewide Interoperable Radio Network; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4373, To exclude fentanyl test strips from the definition of drug paraphernalia; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4439, Creating a special revenue account known as the Military Authority Reimbursable Expenditure Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4463, To increase the compensation members of the State Athletic Commission may receive for their attendance and participation in the commission's public meetings; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4467, Requiring early childhood classroom assistant teacher in certain grade levels and enrollment levels in said grade levels; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4497, Extending the regional jail per diem through July 1, 2023; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4565, To exempt temporary employees and employees of the Higher Education Policy Commission from automatic enrollment into the state's 457 (b) plan; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4571, Modifying foundation allowance to account for transportation by electric powered buses; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4580, To authorize retired bus operators to work in areas of critical need; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4629, Relating to procedures for certain actions against the state; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4826, Relating to e-sports; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4840, Relating to Office of Miners Health, Safety and Training; on second reading, coming up in regular order, was read a second time.

Delegate Rowe moved, under the provisions of House Rule 57, to postpone the bill indefinitely.

Delegate Summers moved that the motion be tabled.

On this motion, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken **(Roll No. 316)**, and there were—yeas 65, nays 24, absent and not voting 11, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Bridges, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Paynter, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Bates, Cooper, Gearheart, Haynes, Hott, Howell, Jennings, McGeehan, Pinson, Toney and Worrell.

So, a majority of the members present having voted in the affirmative, the motion to postpone indefinitely was laid upon the table.

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

H. B. 4842, Relating to obscene matter to minors; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4844, Relating to public school personnel; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4845, Establishing the Katherine Johnson Academy; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4846, Relating to flying under the influence and other aviation offenses; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4847, Relating to missing persons generally; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Graves and Capito, the bill was amended on page 6, section 5, following line 56 by inserting a new subsection to read as follows:

"(i) The amendments to this article made during the 2022 Regular Session shall be known as Brenda's Law."

The bill was then ordered to engrossment and third reading.

H. B. 4848, Relating to nonintoxicating beer, wine and liquor licenses; on second reading, coming up in regular order, was read a second time.

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

H. B. 4849, Relating to bankruptcy; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Hott, Howell, Jennings and Pinson.

Miscellaneous Business

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegates Conley and Maynor regarding Com. Sub. for H. B. 4071

- Delegate Espinosa, including questions with Delegate Capito, on Com. Sub. for H. B. 4071

- Delegate Griffith regarding Com. Sub. for H. B. 4071

- Delegate Mazzocchi regarding Com. Sub. for H. B. 4600

- Delegate Rowe regarding the motion to postpone indefinitely H. B. 4840

Delegate Maynor noted to the Clerk that he was absent when the votes were taken on Com. Sub. for H. B. 4560, Com. Sub. for H. B. 4563 and Com. Sub. for H. B. 4570, and had he been present, he would have voted "Yea" thereon.

At 3:56 p.m., the House of Delegates adjourned until 9:00 a.m., Wednesday, March 2, 2022.

Wednesday, March 2, 2022

FIFTIETH DAY

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

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

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

The Clerk proceeded to read the Journal of Tuesday, March 1, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that Com. Sub. for H. B. 4066, Com. Sub. for H. B. 4753 and H. B. 4840 on Third Reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for S. B. 419 and S. B. 499 on Second Reading, Special Calendar, had been moved to the House Calendar.

Committee Reports

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

Your Committee on Rules has had under consideration:

H. C. R. 92, Mental health study for students in higher education institutions,

And reports the same back with the recommendation that it be adopted.

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

Your Committee on Energy and Manufacturing has had under consideration:

Com. Sub. for S. B. 650, Eliminating number of royalty owners required for utilization by operator for lawful use and development by co-tenants,

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

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

Your Committee on Energy and Manufacturing has had under consideration:

Com. Sub. for S. B. 694, Relating to oil and gas conservation,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 694) was referred to the Committee on the Judiciary.

Delegate Phillips, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

Com. Sub. for S. B. 264, Relating to conservation districts law of WV,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 264) was referred to the Committee on Government Organization.

Delegate Dean, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

S. B. 10, Relating to WVU Rifle Team electronic application donation program,

And,

S. B. 170, Providing WV veterans discounts on fees and charges at state parks,

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

In accordance with the former direction of the Speaker, the bills (S. B. 10 and S. B. 170) were each referred to the Committee on Finance.

Delegate Dean, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

S. B. 98, Creating nonresident three-day fishing license,

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

In accordance with the former direction of the Speaker, the bill (S. B. 98) was referred to the Committee on Government Organization.

Delegate Dean, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

Com. Sub. for S. B. 481, Relating to Adopt-A-Stream Program,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 481) was referred to the Committee on Government Organization.

Delegate Dean, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

Com. Sub. for S. B. 508, Requiring certain attire for deer hunters with muzzleloaders,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 508) was referred to the Committee on the Judiciary.

Delegate Dean, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. R. 7, Urging the United States Congress to increase sustainable forest harvesting on public lands in the state of West Virginia and more specifically, the Monongahela National Forest,

And,

H. C. R. 80, Blackwater Falls to be the official state waterfall,

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

In accordance with the former direction of the Speaker, the resolutions (H. R. 7 and H. C. R. 80) were each referred to the Committee on Rules.

Messages from the Executive

A communication from His Excellency, the Governor, advised that on March 1, 2022, he approved **Com. Sub. for S. B. 445**.

Messages from the Senate

A message from the Senate, by
The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2023, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 64 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-3uu, relating to allowing county commissions to impose an amusement tax"; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 100 - "A Bill to amend and reenact §19-23-12a of the Code of West Virginia, 1931, as amended; to amend and reenact §29-22A-12 of said code; to amend and reenact §29-22C-3, §29-22C-4, §29-22C-6, §29-22C-7and, §29-22C-8 of said code; to amend and reenact §29-22D-15 of said code, all relating to allowing for the establishment of a secondary location for pari-mutual wagering on simulcast races, racetrack video lottery terminals, sport wagering kiosks, and racetrack table games of licensed racetracks at an alternative location within the current county of the licensed racetrack; providing that the original venue must remain in operation; providing that the original venue continue to offer amenities, accommodations, options and services at the same level; providing for a local option election, defining terms; providing Lottery Commission authority to regulate secondary locations; providing for rulemaking; and providing for licensing of secondary locations"; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 181 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-42-1, §16-42-2, §16-42-3, §16-42-4, §16-42-5, §16-42-6, and §16-42-7, all relating to creating of the Core Behavioral Health Crisis Services System; designating crisis hotline centers; reimbursing treatment for crisis receiving and stabilization services; establishing the duties and powers of the secretary; providing for timelines for implementation; authorizing rulemaking, including emergency rules; and requiring annual reports"; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

Com. Sub. for S. B. 223 - "A Bill to amend and reenact §44-2-1 and §44-2-29 of the Code of West Virginia, 1931, as amended; to amend and reenact §44-3A-4a and §44-3A-19 of said code; and to amend and reenact §44-4-9 of said code, all relating to the procedure to settle estates of decedents; abolishing the requirement to publish a short form settlement of estates of decedents; providing for short form filing procedure; and updating language and style"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 231 - "A Bill to amend and reenact §31G-4-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §31G-4-7, all relating to broadband connectivity; defining terms; requiring engineering reports on available telecommunication cable space; providing for shared costs for the report; requiring notice from pole owner or manager to telecommunication carriers of available space; requiring notice to pole owner or manager of intent to use any available space; and exempting pole owners which have electronic permitting and notification software system for processing pole attachment applications"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 232 - "A Bill to amend and reenact §61-11-18 of the Code of West Virginia, 1931, as amended, relating to punishment for third offense felony; clarifying that release from

incarceration includes federal incarceration; requiring that for what would otherwise be a qualifying offense not to be such at least 20 years of unincaracerated, unsupervised time must have elapsed between the most recent felony offense and the previous offense; and relating to punishment for third offense felony"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 413 - "A Bill to amend and reenact §61-2-9a of the Code of West Virginia, 1931, as amended, relating to clarifying the criminal offense of harassment; and clarifying that stalking is a form of harassment"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 424 - "A Bill to repeal §19-1-10, §19-2C-1, §19-2C-2, §19-2C-3, §19-2C-4, §19-2C-5, §19-2C-6, §19-2C-7, §19-2C-8, §19-2C-9, §19-2C-10, and §19-15-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-13DD-3 of said code; to amend and reenact §19-1-4a and §19-1-11 of said code; to amend said code by adding thereto one new section, designated §19-1-13; to amend and reenact §19-9-7a of said code; to amend and reenact §19-12E-4 and §19-12E-5 of said code; to amend and reenact §19-15A-4 of said code; to amend and reenact §19-16-6 of said code; to amend and reenact §19-16A-21 of said code; to amend and reenact §19-20C-3 of said code; to amend and reenact §19-36-5 of said code, and to amend said code by adding thereto a new article, designated §30-43-1, §30-43-2, §30-43-3, §30-43-4, §30-43-5, §30-43-6, §30-43-7, §30-43-8, §30-43-9, §30-43-10, §30-43-11, and §30-43-12 of said code, all relating generally to the 2022 Farm Bill; increasing the West Virginia Farm-to-Food bank tax credit; allowing for retroactive application

of the tax credit; allowing the Commissioner of Agriculture to accept certain funds and property from federal agencies, individuals, and certain businesses; repealing requirement for Social Security numbers on applications; removing requirement that commissioner file annual report on rural rehabilitation loan program with Joint Committee; requiring commissioner to file annual report detailing department activities with President of the Senate, Speaker of the House, and Joint Committee on Government and Finance and sending copy to archives and history; requiring license from state to produce industrial hemp; repealing auctioneers article and transferring regulation of auctioneers from Department of Agriculture to Secretary of State effective July 1, 2023; changing the National Animal Identification System to the Animal Disease Traceability Program; requiring license from state to produce industrial hemp; allowing commissioner to recognize hemp license issued by the USDA; repealing publication requirement for fertilizer law; removing requirement that commissioner publish annual report on the liming material law; removing requirement that commissioner publish and distribute annual report on the law; allowing commissioner to deny, suspend, modify, or revoke license or application for license for violation, conviction, or penalty assessment under a certain federal act; removing requirement that commissioner file annual spay and neuter report; providing that agritourism on land classified as agricultural does not change use of land for zoning purposes; providing that agritourism business may use certain facilities for certain events without complying with fire codes; creating article transferring regulation of auctioneers from the Department of Agriculture to the Secretary of State effective July 1, 2023, providing for definitions, license requirement; exceptions; defining license application procedure; rulemaking; special revenue fund; bond requirement; requirements for auctioneer and apprentice auctioneer license; examination and background check of applicants; investigation of complaints; duties of auctioneers; procedure for reciprocal or nonresident licenses; orders, hearings, and review by secretary; penalties; suspension, denial, or revocation of licenses; auctioneer contracts; escrow accounts; advertising; effective date of article; and honoring prior licenses

and pending applications"; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

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

S. B. 448 - "A Bill to amend and reenact §15-14-6 and §15-14-9 of the Code of West Virginia, 1931, as amended, all relating to clarifying that the Statewide Interoperability Executive Committee is responsible to develop, update, and implement policies regarding the Statewide Interoperable Radio Network; allowing the Statewide Interoperability Executive Committee to revoke, suspend, or modify an entity's use of the Statewide Interoperable Radio Network or equipment connected thereto; directing the Statewide Interoperability Executive Committee to provide guidance and services to any radio previously connected to the Statewide Interoperable Radio Network; authorizing the Statewide Interoperability Executive Committee to develop a recycling program for two-way telecommunications equipment, exclusive of equipment handled by the Office of Technology, in an effort to cleanse, reuse, redistribute, or sell such equipment; and directing that moneys received from the sale of recycled equipment be placed in the Statewide Interoperable Radio Network special revenue account."

At the respective requests of Delegate Summers, and by unanimous consent, reference of the bill (Com. Sub. for S. B. 448) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

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

S. B. 456 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding a new section, designated §18-5-22e,

relating to defining seizure action plans; requiring county boards of education to develop a policy relating to seizure action plans; imposing minimum requirements for these policies; requiring the parents or guardians to collaborate with school personnel to implement seizure action plans; and mandating the state board to promulgate rules"; which was referred to the Committee on Health and Human Resources then Education.

A message from the Senate, by

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

Com. Sub. for S. B. 590 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §37-6-5a; to amend and reenact §37-6A-5 of said code; and to amend and reenact §55-3A-1 of said code, all relating generally to residents of recovery residences; defining terms; providing that a resident of a recovery residence may be immediately discharged in certain circumstances; establishing procedures for removing recovery resident; establishing refund process for fees for residency or services paid to a recovery residence; requiring return transportation be provided to an individual transported to a recovery residence from outside the state of West Virginia; requiring the reporting of certain information to West Virginia Department of Health and Human Resources; requiring award of reasonable attorney's fees against recovery residence in certain instances; and requiring recovery residence file a petition for summary relief for wrongful occupation of residential rental property in certain circumstances"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 610 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-2-1 and §17-2-2, all relating to the duties, powers,

and responsibilities of the Secretary of the Department of Transportation; defining terms; and specifying duties, powers, and responsibilities of the Secretary of the Department of Transportation"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 617 - "A Bill to amend and reenact §5-6-11a of the Code of West Virginia, 1931, as amended; to amend and reenact §5-11-5 of said code; to amend and reenact §5A-8-15 of said code; to amend and reenact §5B-2I-7 of said code; to amend and reenact §6C-3-1 of said code; to amend and reenact §10-1-12 of said code; to amend and reenact §11-13J-4a of said code; to amend and reenact §16-4C-5 of said code; to amend and reenact §16-5Z-2 of said code; to amend and reenact §16-52-3 of said code; to amend and reenact §17-4A-3 of said code; to amend and reenact §17-16A-3 of said code; to amend and reenact §17-16B-2 of said code; to amend and reenact §17-16C-4 of said code; to amend and reenact §18-2-1 of said code; to amend and reenact §18-11-1 of said code; to amend and reenact §18B-1B-2 of said code; to amend and reenact §22C-3-4 of said code; to amend and reenact §29-21-3b of said code; to amend §29-22-4 of said code; to amend and reenact §30-38-6 of said code; to amend and reenact §30-42-4 of said code; and to amend and reenact §31G-1-3 of said code, all relating to qualifications for members of boards, commissions, and other entities; reducing number of members of board of directors of nonprofit corporation operating and maintaining Clay Center for the Arts; revising qualifications for members of Human Rights Commission; establishing qualifications for members of Records Management and Preservation Board; revising qualifications for membership on Tourism Advisory Council; updating number of members of Public Employees Grievance Board who may be appointed from each congressional district; establishing number of members of Library Commission who are appointed from each congressional district; revising number of members of

Neighborhood Investment Program Advisory Board from each congressional district; revising number of members of Emergency Medical Services Advisory Council appointed from any one congressional district; modifying requirements for membership on Coalition for Diabetes Management; establishing requirements for members of Coalition for Chronic Pain Management; revising membership of Complete Streets Advisory Board; establishing number of appointed members of Parkways Authority and recognizing reduction in number of congressional districts; altering composition of membership of Public Port Authority; establishing qualifications for appointed members of Public Transit Advisory Council; revising qualifications for appointment to West Virginia Board of Education; revising requirements for appointed members of Board of Governors; Altering composition of Higher Education Policy Commission; making technical changes to qualifications for appointment to Solid Waste Management Board; modifying membership of Indigent Defense Commission; providing for qualifications for appointment to State Lottery Commission; revising qualifications for appointment to Real Estate Appraiser Licensing and Certification Board; revising qualifications for appointment to Contractor Licensing Board; and establishing qualifications for membership on Broadband Enhancement Council"; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 647 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-65-1, §16-65-2, §16-65-3, and §16-65-4, all relating to prohibiting discrimination based on an individual's mental or physical disability relating to access to organ transplantation; setting forth legislative findings; defining terms; prohibiting a covered entity from taking certain actions solely on the basis of a qualified individual's mental or physical disability; providing exceptions; providing that it is not medically significant

if an individual cannot independently comply with post-transplant medical requirements if the individual has the necessary support system; requiring a covered entity to make reasonable modifications in policies, practices, or procedures; prohibiting a covered entity from denying services; providing an exception; requiring a covered entity to comply with specified federal laws; and providing enforcement mechanisms"; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2022, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 656 - "A Bill to amend and reenact §11-21-71 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-24-44, all relating to providing a tax credit against the state corporate net income tax to for-profit corporations or a tax credit against payroll withholdings for nonprofit corporations, limited liability corporations, sole proprietorships, partnerships, and limited partnerships for expenditures related to the establishment and operation of employer-provided or sponsored child-care facilities; defining terms; providing for rulemaking; setting the amount of the credit; providing for limitation of the credit; and providing for a recapture process"; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 662 - "A Bill to amend and reenact §7-25-3, §7-25-5, §7-25-6, §7-25-10, and §7-25-15 of the Code of West Virginia, 1931, as amended, all relating to resort area districts; updating definitions and petition procedures; clarifying board nominee qualifications; permitting board members to receive reasonable compensation for service; detailing procedures for expansion of Resort Area District; providing for local election; and

authorizing districts to collect service assessments from property owners for services"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 686 - "A Bill to amend and reenact §31-18-6 and §31-19-9 of the Code of West Virginia, 1931, as amended, relating to clarify the use of notes or bonds of the West Virginia Housing Development Fund and to authorize the allocation from time to time of a portion of its state ceiling allocation under §13-2C-21(b) of said code to political subdivisions or city or county housing authorities authorized to issue bonds or notes for qualified residential rental projects"; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 693 - "A Bill to amend and reenact §3-1-9 of the Code of West Virginia, 1931, as amended, relating to clarifying the meeting voting requirements for political party executive committees"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 697 - "A Bill to amend and reenact §61-2-14a and §61-2-14g of the Code of West Virginia, 1931, as amended, all relating generally to the offenses of kidnapping and unlawful restraint; clarifying the distinct elements of the separate offenses; removing redundant language; and making grammatical

corrections"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 721 - "A Bill to amend and reenact §7-12-3 of the Code of West Virginia, 1931, as amended, relating to municipalities required to be represented on county authority boards; and providing that only municipalities with 1,000 or more residents are required to be represented on a county authority board"; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 727 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60-3-26, relating to directing the Commissioner of the Alcoholic Beverage Control Administration to discontinue the state's acquisition of alcoholic liquors manufactured in the Russian Federation or by an person or entity located therein; establishing duration of the ban; authorizing the commissioner, at the Governor's direction, to sell or auction alcoholic liquors made in the Russian Federation or under the authority of a business located within the federation with the proceeds going to charitable organizations assisting the people of Ukraine"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. C. R. 54 "Requesting the Joint Committee on Government and Finance study the issue of tolling the statute of limitations for civil actions brought by the Attorney General pursuant to the West Virginia Consumer Credit and Protection Act;"

Whereas, W. Va. Code §46A-7-111(b) authorizes the Attorney General to bring a civil action against a creditor or other person to recover a civil penalty for willfully violating the West Virginia Consumer Credit Protection Act, §46A-1-1 *et seq.*, and if the court finds that the defendant has engaged in a course of repeated and willful violations of this chapter, it may assess a civil penalty of no more than $5,000 for each violation of this chapter; and

Whereas, W. Va. Code §46A-7-111(b) further prohibits the imposition of a civil penalty pursuant to this subsection for violations the West Virginia Consumer Credit Protection Act occurring more than four years before the action is brought; and

Whereas, the West Virginia Consumer Credit Protection Act is silent as to whether the four-year period specified in W. Va. Code §46A-7-111(b) is subject to tolling under any legal, equitable, or other doctrine: therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on the Judiciary is hereby requested to study whether the four-year period specified in W. Va. Code §46A-7-111(b) should be subject to tolling under any legal, equitable, or other doctrine; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance."; which was referred to the Committee on the Judiciary then Rules.

Resolutions Introduced

Delegates Pushkin, D. Jeffries, Rowe and Barach offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 95 - "Requesting the Division of Highways name bridge number (10815), carrying CR 52, known as New Hope Road, over Blue Creek in Kanawha County, the 'Clemmer Brothers WWII Veterans Memorial Bridge'."

Whereas, Three brothers, Eugene Lloyd Clemmer, Arthur Wayland Clemmer and Ashton Price Clemmer, the sons of James Harold Clemmer and Iva Gertrude Price Clemmer, were born and raised at Blue Creek in Kanawha County; all three of these brothers served in the U.S. Armed Forces during World War II; and

Whereas, U. S. Army PVT Ashton Price Clemmer was born on August 3, 1910; he served in the U.S. Army in Company K, 315th Infantry during World War II; and

Whereas, U.S. Army SGT Arthur Wayland Clemmer was born February 19, 1917, and served in the U.S. Army during World War II; he was married to Hazel Smith Clemmer and worked for Columbia Gas; and

Whereas, U.S. Marine Corp SGT Eugene Lloyd Clemmer was born on February 9, 1919; he was a pipefitter at Kaiser Aluminum in Jackson County for 13 years and was a member of the United Steel Workers; and

Whereas, U. S. Army PVT Ashton Price Clemmer died on December 5, 1961 in Kanawha County; U.S. Army SGT Arthur Wayland Clemmer died March 14, 1984 in Kanawha County; and U.S. Marine Corp SGT Eugene Lloyd Clemmer died January 27, 1974 in Jackson County; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Army PVT Ashton Price Clemmer, U.S. Army SGT Arthur Wayland Clemmer, and U.S. Marine Corp SGT

Eugene Lloyd Clemmer and each of their contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number (10815), carrying CR 52, known as New Hope Road, over Blue Creek in Kanawha County, the "Clemmer Brothers WWII Veterans Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Clemmer Brothers WWII Veterans Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates Skaff, Pack, Rowe, Young, Barach and Pushkin offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 96 - "Requesting that the Division of Highways name a portion of West Virginia Route 61, in Kanawha County, beginning at the West end of WV Rt 61 at the Chesapeake, West Virginia city limit and ending at the East end of WV Rt 61 at the Chesapeake, West Virginia city limit the 'U. S. Air Force Captain Perry Thomas Rose Memorial Road'."

Whereas, Perry Thomas Rose was born on September 16, 1943, son of Perry Spencer and Eris Thomas Rose, The family included a daughter, Jane. Tom, as the younger Perry was called, attended Charleston High School, and graduated in 1961. He was offered an ROTC Scholarship to Columbia but instead accepted an appointment to the United States Air Force Academy. He received a degree in engineering management in 1965 and entered active military service; and

Whereas, During his tour of duty in Vietnam, Tom flew more than 190 combat missions. In 1970 he was awarded the

Distinguished Flying Cross for "extraordinary achievement" as a forward air controller in an action that took place near Phan Thiet, Vietnam, in June 1969. He flew his plane at a low altitude through intense hostile fire while directing tactical air power on enemy forces who had ambushed a friendly convoy. The award was presented to him during ceremonies at Wright-Patterson Air Force Base in Ohio. After his return to the states, Tom assisted with zero gravity training tests in preparation for the Apollo 14 mission of January 1971 by astronauts Alan Shepard Jr., Stuart Roosa and Edgar D. Mitchell; and

Whereas, On June 12, 1971, Capt. Rose was aboard a C135 on a flight from Pago Pago, American Samoa, to Hawaii, that was engaged in a surveillance mission. It was assumed it was in the South Pacific to monitor French nuclear tests. During the 2,227 mile flight, the plane disappeared on its return flight to Hickham Air Force Base and crashed. A search was launched but was abandoned after four and 1/2 days with those on board presumed dead. Tom was survived by his parents and wife, Katherine; and

Whereas, It is fitting that an enduring memorial be established to commemorate Captain Perry Thomas Rose and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a portion of West Virginia Route 61, in Kanawha County, beginning at the West end of WV Rt 61 at the Chesapeake, West Virginia city limit and ending at the East end of WV Rt 61 at the Chesapeake, West Virginia city limit the "U. S. Air Force Captain Perry Thomas Rose Memorial Road"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the portion of road as the "U. S. Air Force Captain Perry Thomas Rose Memorial Road"; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Special Calendar

Third Reading

H. J. R. 104, Providing Term Limits for certain Constitutional Officers; on third reading, coming up in regular order, was read a third time.

On the adoption of the resolution, the yeas and nays were taken **(Roll No. 317)**, and there were—yeas 93, nays none, absent and not voting 7, with the yeas, nays, and absent and not voting being as follows:

Yeas: Anderson, Barach, Barnhart, Barrett, Bates, Boggs, Booth, Brown, Burkhammer, Capito, Clark, Conley, Cooper, Criss, Crouse, Dean, Diserio, Doyle, Ellington, Evans, Fast, Ferrell, Fleischauer, Fluharty, Forsht, Foster, Garcia, Gearheart, Graves, Griffith, Hanna, Hansen, Hardy, Haynes, Holstein, Honaker, Hornbuckle, Horst, Hott, Howell, D. Jeffries, J. Jeffries, Keaton, D. Kelly, J. Kelly, Kessinger, Kimble, Kimes, Linville, Longanacre, Lovejoy, Mallow, Mandt, Martin, Maynard, Maynor, Mazzocchi, McGeehan, Miller, Nestor, Pack, Paynter, Pethtel, Phillips, Pinson, Pritt, Pushkin, Queen, Reed, Reynolds, Riley, Rohrbach, Rowan, Rowe, Skaff, Smith, Statler, Storch, Summers, Sypolt, Thompson, Toney, Tully, Walker, Wamsley, B. Ward, G. Ward, Westfall, Williams, Young, Zatezalo, Zukoff and Hanshaw (Mr. Speaker).

Nays: None.

Absent and Not Voting: Bridges, Espinosa, Hamrick, Householder, Jennings, Steele and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the resolution (H. J. R. 104) adopted, as follows:

H. J. R. 104 - "Proposing an amendment to the Constitution of the State of West Virginia, amending section four, article VII thereof, relating to preventing any individual from serving in the office of Secretary of State, Auditor, State Treasurer, Commissioner of Agriculture, or Attorney General for more than three consecutive terms; numbering and designating such proposed amendment; 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 the next general election to be held in the year 2022, which proposed amendment is that section four, article VII thereof, be amended to read as follows:

ARTICLE VII. EXECUTIVE DEPARTMENT.

§4. Eligibility.

None of executive officers mentioned in this article shall hold any other office during the term of his or her service.

A person who has been elected or who has served as Governor during all or any part of two consecutive terms shall be ineligible for the office of Governor during any part of the term immediately following the second of the two consecutive terms. The person holding the office of governor when this section is ratified shall not be prevented from holding the office of governor during the term immediately following the term he is then serving.

After January 1, 2025, a person may not serve more than three consecutive terms in one of the following offices: Secretary of State; State Auditor; State Treasurer; Attorney General; or Commissioner of Agriculture. Terms that begin prior to January 1, 2025, are not counted for the purposes of this limitation. A partial term served, that begins after January 1, 2025, shall be counted for the purposes of this limitation.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered "Amendment No. 1" and designated as the "Constitutional Officer Term Limit Amendment" and the purpose of the proposed amendment is summarized as follows: "To prevent any person from serving in the office of Secretary of State, Auditor, Treasurer, Commissioner of Agriculture, or Attorney General for more than three consecutive terms for terms beginning after January 1, 2025."

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

H. B. 2300, Including Family Court Judges in the Judges' Retirement System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 318)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Espinosa, Hamrick, Householder, Jennings and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2300) passed.

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

H. B. 2751, Modernize the process for dissolution of municipal corporations in this State; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 319)**, and there were—yeas 93, nays 1, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Kimes.

Absent and Not Voting: Bridges, Espinosa, Hamrick, Householder, Jennings and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2751) passed.

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

Com. Sub. for H. B. 2910, To modify the allowable number of magistrate judges per county; on third reading, coming up in regular order, with amendments pending, was reported by the Clerk.

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

Whereupon,

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

Delegate Fluharty moved the bill on page 2, section 2, lines 28-29, by inserting a comma and striking out the words "and, by result, would be required to reduce its number of current magistrates";

And,

On page 2, section 2, line 32, by striking out the period, inserting a comma and the following:

"and if not, the number of magistrates may be increased or decreased accordingly."

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

The yeas and nays having been ordered, they were taken **(Roll No. 320)**, and there were—yeas 23, nays 71, absent and not voting 6, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hanna, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Bridges, Espinosa, Hamrick, Householder, Jennings and Worrell.

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

Delegate Burkhammer moved to amend the bill on page 2, section 2, line 23, immediately following the word "allocated" by striking the remainder of subdivision (2) and inserting in lieu thereof the following:

"to each county as follows, based upon actual caseload and population of each county: Barbour-2, Berkeley-8, Boone-2, Braxton-2, Brooke-2, Cabell-8, Calhoun-1, Clay-1, Doddridge-1, Fayette-3, Gilmer-1, Grant-2, Greenbrier-3, Hampshire-2, Hancock-2, Hardy-2, Harrison-5, Jackson-2, Jefferson-4, Kanawha-10, Lewis-2, Lincoln-2, Logan-4, Marion-4, Marshall-2, Mason-2, McDowell-2, Mercer-5, Mineral-2, Mingo-2, Monongalia-6, Monroe-1, Morgan-2, Nicholas-3, Ohio-4, Pendelton-1, Pleasants-1, Pocahontas-1, Preston-3, Putnam-4, Raleigh-6, Randolph-3, Ritchie-1, Roane-2, Summers-1, Taylor-2, Tucker-1, Tyler-1, Upshur-2, Wayne-3, Webster-1, Wetzel-1, Wirt-1, Wood-6, Wyoming-2"

And,

on page 2, section 2, line 43, immediately following the word "population" by the following: "and caseload"

And,

on page 2, section 2, line 44, immediately following the word "county" by striking the words: "utilizing the above formula"

And,

On page 5, immediately following section 3, by inserting the following:

"**§50-1-13. Temporary service within or outside of county.**

(a) The Chief Justice of the Supreme Court of Appeals or judge of the circuit court of the county in which a magistrate is elected, or the chief judge thereof if there is more than one judge of the circuit court, may order a magistrate to serve temporarily at locations within the county other than at the regular office or offices of the magistrate.

(b) The Chief Justice of the Supreme Court of Appeals or judge of the circuit court of the county in which a magistrate is elected, or the chief judge thereof if there is more than one judge of the circuit court, may by order direct a magistrate to serve temporarily in any other county ~~within the judicial circuit~~ for ~~such~~ any purposes ~~as~~ directed by the judge. ~~may direct.~~ The magistrate's authority, to the extent ordered by the judge, shall be equal to the jurisdiction and authority of a magistrate elected in the county to which the magistrate is ordered to serve. The temporary assignment may not exceed 60 days in length in any given calendar year, except with the consent of the transferred magistrate.

~~(c) A magistrate who is temporarily assigned to a county with a higher salary schedule for magistrates than the salary schedule in the county from which the magistrate was elected, shall be reimbursed for the difference of the salary in the assigned county and the lower salary which the magistrate received in the county of election, prorated for the number of days of the temporary assignment. An assigned magistrate may not be reimbursed on a pro rata basis for less than the salary received in the county of that magistrate's election~~

~~(d)~~ (c) A magistrate serving outside the county in which he or she is elected or appointed shall be reimbursed for reasonable

expenses incurred in service outside of the county, as provided by rule of the Supreme Court of Appeals.

(d) The Supreme Court of Appeals is requested to develop a rule creating a system in which magistrates shall, on a periodic alternating basis, be assigned to preside over initial appearances, petitions for domestic violence, emergency protective orders, emergency mental health petitions, emergency juvenile delinquency petitions, and applications for the issuance of search warrants arising on a circuit-wide or other regional basis as determined by the Supreme Court of Appeals. The authority of that magistrate shall be equal to the jurisdiction and authority of a magistrate elected or appointed in any county in which he or she is directed to preside.

(e) Nothing in this section should be construed to prohibit proceedings authorized by subsection (d) of this section being held remotely if that is determined appropriate by the Supreme Court of Appeals."

Delegate Foster moved to divide the question on the adoption of the amendment.

The question being on the adoption of the motion to divide the amendment between §50-1-13(b) and §50-1-13(c), the same was put and prevailed.

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

The yeas and nays having been ordered, they were taken **(Roll No. 321)**, and there were—yeas 29, nays 65, absent and not voting 6, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Barrett, Bridges, Burkhammer, Capito, Criss, Ellington, Forsht, Gearheart, Hardy, Holstein, Honaker, Kessinger, Linville, Longanacre, Mallow, Martin, Maynard, Maynor, Mazzocchi, Pack, Pinson, Queen, Riley, Smith, Thompson, Toney, Tully and G. Ward.

Absent and Not Voting: Espinosa, Graves, Hamrick, Householder, Jennings and Worrell.

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

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

The yeas and nays having been ordered, they were taken **(Roll No. 322)**, and there were—yeas 61, nays 34, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Barach, Barnhart, Bates, Boggs, Brown, Dean, Diserio, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Haynes, Hornbuckle, J. Jeffries, D. Kelly, McGeehan, Miller, Nestor, Paynter, Pethtel, Pushkin, Reynolds, Skaff, Storch, Summers, Thompson, Toney, Walker, Wamsley, Williams, Young and Zukoff.

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings and Worrell.

So, a majority of the members present having voted in the affirmative, the second portion of the amendment was adopted, amending the bill on page 5, immediately following section 3, by inserting the following:

"**§50-1-13. Temporary service within or outside of county.**

(a) The Chief Justice of the Supreme Court of Appeals or judge of the circuit court of the county in which a magistrate is elected, or the chief judge thereof if there is more than one judge of the circuit court, may order a magistrate to serve temporarily at locations within the county other than at the regular office or offices of the magistrate.

(b) The Chief Justice of the Supreme Court of Appeals or judge of the circuit court of the county in which a magistrate is elected, or the chief judge thereof if there is more than one judge of the

circuit court, may by order direct a magistrate to serve temporarily in any other county within the judicial circuit for such purposes as the judge may direct. The magistrate's authority, to the extent ordered by the judge, shall be equal to the jurisdiction and authority of a magistrate elected in the county to which the magistrate is ordered to serve. The temporary assignment may not exceed 60 days in length in any given calendar year, except with the consent of the transferred magistrate.

~~(c) A magistrate who is temporarily assigned to a county with a higher salary schedule for magistrates than the salary schedule in the county from which the magistrate was elected, shall be reimbursed for the difference of the salary in the assigned county and the lower salary which the magistrate received in the county of election, prorated for the number of days of the temporary assignment. An assigned magistrate may not be reimbursed on a pro rata basis for less than the salary received in the county of that magistrate's election~~

~~(d)~~ (c) A magistrate serving outside the county in which he or she is elected or appointed shall be reimbursed for reasonable expenses incurred in service outside of the county, as provided by rule of the Supreme Court of Appeals.

(d) The Supreme Court of Appeals is requested to develop a rule creating a system in which magistrates shall, on a periodic alternating basis, be assigned to preside over initial appearances, petitions for domestic violence, emergency protective orders, emergency mental health petitions, emergency juvenile delinquency petitions, and applications for the issuance of search warrants arising on a circuit-wide or other regional basis as determined by the Supreme Court of Appeals. The authority of that magistrate shall be equal to the jurisdiction and authority of a magistrate elected or appointed in any county in which he or she is directed to preside.

(e) Nothing in this section should be construed to prohibit proceedings authorized by subsection (d) of this section being held remotely if that is determined appropriate by the Supreme Court of Appeals."

There being no further amendments, and having been engrossed, the bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 323)**, and there were—yeas 66, nays 29, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Bates, Boggs, Bridges, Brown, Dean, Diserio, Ellington, Evans, Fluharty, Garcia, Gearheart, Hanna, Hornbuckle, D. Kelly, Lovejoy, Maynard, Mazzocchi, Nestor, Paynter, Pethtel, Pushkin, Reynolds, Smith, Storch, Thompson, Toney, Tully and Zukoff.

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2910) passed.

H. B. 3073, Relating to the West Virginia Emergency School Food Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 325)**, and there were, including pairs—yeas 85, nays 5, absent and not voting 10, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Worrell Nay: Gearheart

Nays: Fast, J. Jeffries, Kimes and McGeehan.

Absent and Not Voting: Barrett, Espinosa, Ferrell, Fluharty, Hamrick, Householder, Jennings, Longanacre, Rohrbach and Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3073) passed.

[Note: The above pairing had been filed prior to the vote but was not announced for **Roll No. 324** and that roll call has been omitted from the Journal. The pairing was announced for **Roll No. 325**.]

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

Com. Sub. for H. B. 4001, Generally relating to broadband; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, and having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 326)**, and there were—yeas 87, nays 2, absent and not voting 11, with the nays and the absent and not voting being as follows:

Nays: Criss and Gearheart.

Absent and Not Voting: Boggs, Crouse, Espinosa, Hamrick, Hornbuckle, Householder, Jennings, Nestor, Steele, Summers and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4001) passed.

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

Com. Sub. for H. B. 4020, Relating to reorganizing the Department of Health and Human Resources; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 327)**, and there were—yeas 83, nays 11, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Gearheart, Hanna, J. Jeffries, Keaton, Kimes, Pack, Paynter, Pritt, Rowe, Smith and G. Ward.

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Summers and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4020) passed.

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

Com. Sub. for H. B. 4021, Relating to the Medical Student Loan Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 328)**, and there were—yeas 91, nays 1, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Kessinger.

Absent and Not Voting: Bridges, Espinosa, Hamrick, Householder, Jennings, McGeehan, Nestor and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4021) passed.

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

Com. Sub. for H. B. 4050, Defining terms related to livestock trespassing; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 329)**, and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Garcia, Hamrick, Honaker, Householder, Jennings, McGeehan, Nestor and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4050) passed.

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

Com. Sub. for H. B. 4293, Prohibiting mass mailing of absentee ballots; on third reading, coming up in regular order, with amendments pending, was reported by the Clerk.

An amendment offered by Delegate Young was reported by Clerk.

Whereupon,

Delegate Young asked and obtained unanimous consent for the amendment by Delegate Capito be considered first.

On motion of Delegate Capito, the bill was amended on page 1, section 5, line 5 following the word "State." By striking the following: "<u>It is unlawful for any person, including any election official, to mail or deliver an application for an absentee ballot to any voter except when specifically requested by that voter.</u>"

Delegate Young then asked and obtained unanimous consent to withdraw her amendment and offer the following reformed

amendment on page 7, section 5, line 150, by striking out the number "(1)";

And,

On page 7, section 5, lines 155 through 159, by striking out subdivision (2) in its entirety.

On the question of adoption of the amendment, the same was put and was rejected.

There being no further amendments, and having been engrossed, the bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 330)**, and there were—yeas 72, nays 22, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Phillips and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4293) passed.

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

Com. Sub. for H. B. 4320, Relating to natural immunity or antibodies to any illness to be treated as equal or better to vaccine induced immunity; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 331)**, and there were, including pairs—yeas

68, nays 28, absent and not voting 4, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Worrell Nay: Reed

Nays: Barach, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Haynes, Hornbuckle, Lovejoy, Pack, Pethtel, Pushkin, Reed, Rowe, Skaff, Storch, Thompson, Toney, Walker, Westfall, Williams, Young and Zukoff.

Absent and Not Voting: Espinosa, Hamrick, Householder and Jennings.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4320) passed.

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

At 1:29 p.m., on motion of Delegate Summers, the House of Delegates recessed until 2:15 p.m.

* * * * * * *

Afternoon Session

* * * * * * *

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

Reordering of the Calendar

During the recess, Com. Sub. for H. B. 4370 on Third Reading, Special Calendar, was transferred to the House Calendar; and Com.

Sub. for H. B. 4753 on Third Reading, House Calendar, was transferred to the Special Calendar, and placed at the foot of all bills on the Calendar; by the Committee on Rules.

Special Calendar

Third Reading

- continued -

Com. Sub. for H. B. 4336, Providing for the valuation of natural resources property; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 332)**, and there were—yeas 65, nays 29, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Barach, Barnhart, Booth, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, D. Kelly, J. Kelly, Lovejoy, Paynter, Pethtel, Pushkin, Reed, Reynolds, Rowe, Skaff, Storch, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Linville and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4336) passed.

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

Com. Sub. for H. B. 4353, Relating to On Cycle Elections - Voter Turnout Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 333)**, and there were—yeas 78, nays 14,

absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Boggs, Doyle, Fleischauer, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Thompson, Toney, Walker, Williams, Zukoff and Hanshaw (Mr. Speaker).

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Kessinger, Linville, Longanacre and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4353) passed.

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

Com. Sub. for H. B. 4373, To exclude fentanyl test strips from the definition of drug paraphernalia; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 334)**, and there were—yeas 84, nays 6, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Burkhammer, Fast, Foster, Kimes and Phillips.

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Kessinger, Linville, Longanacre, Maynor, Wamsley and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4373) passed.

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

Com. Sub. for H. B. 4439, Creating a special revenue account known as the Military Authority Reimbursable Expenditure Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 335)**, and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Kessinger, Linville, Wamsley and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4439) passed.

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

On this question, the yeas and nays were taken **(Roll No. 336)**, and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Diserio, Espinosa, Hamrick, Householder, Jennings, Kessinger, Linville, Wamsley and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4439) takes effect from its passage.

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

H. B. 4463, To increase the compensation members of the State Athletic Commission may receive for their attendance and participation in the commission's public meetings.; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 337)**, and there were—yeas 81, nays 11,

absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Conley, Fast, J. Jeffries, Keaton, Kimble, Kimes, McGeehan, Paynter, Pritt and Toney.

Absent and Not Voting: Dean, Espinosa, Evans, Hamrick, Householder, Jennings, Linville and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4463) passed.

Delegate Summers moved that the bill take effect July 1, 2022.

On this question, the yeas and nays were taken **(Roll No. 338)**, and there were—yeas 90, nays 3, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Fast and Kimble.

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Linville, Martin and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4463) takes effect July 1, 2022.

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

Com. Sub. for H. B. 4467, Requiring early childhood classroom assistant teacher in certain grade levels and enrollment levels in said grade levels; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 339)**, and there were—yeas 90, nays 3, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Foster, J. Jeffries and Kimes.

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Linville, Martin and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4467) passed.

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

Com. Sub. for H. B. 4497, Extending the regional jail per diem through July 1, 2023; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 340)**, and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Linville, Martin and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4497) passed.

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

Whereupon,

In the absence of objection, the motion was withdrawn.

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

Com. Sub. for H. B. 4565, To exempt temporary employees and employees of the Higher Education Policy Commission from automatic enrollment into the state's 457 (b) plan; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 341)**, and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Doyle, Espinosa, Hamrick, Householder, Jennings, Linville, Martin, Williams, Worrell and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4565) passed.

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

H. B. 4571, Modifying foundation allowance to account for transportation by electric powered buses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 342)**, and there were—yeas 77, nays 16, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Evans, Foster, Gearheart, Horst, J. Jeffries, Kimble, Kimes, Mandt, McGeehan, Miller, Paynter, Pinson, Pritt, Steele, G. Ward and Zatezalo.

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Linville, Martin and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4571) passed.

Delegate Summers moved that the bill take effect July 1, 2022.

On this question, the yeas and nays were taken **(Roll No. 343)**, and there were—yeas 89, nays 4, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Horst, Kimble, Paynter and Pritt.

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Linville, Martin and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4571) takes effect July 1, 2022.

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

Com. Sub. for H. B. 4580, To authorize retired bus operators to work in areas of critical need; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 344)**, and there were—yeas 92, nays 1, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Kimes.

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Linville, Martin and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4580) passed.

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

Com. Sub. for H. B. 4629, Relating to procedures for certain actions against the state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 345)**, and there were—yeas 75, nays 18,

absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Brown, Diserio, Doyle, Evans, Fast, Fleischauer, Fluharty, Garcia, Hansen, Hornbuckle, Lovejoy, Pushkin, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Linville, Martin and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4629) passed.

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

Com. Sub. for H. B. 4826, Relating to e-sports; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 346)**, and there were—yeas 69, nays 22, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Boggs, Burkhammer, Fast, Hanna, Holstein, Horst, D. Jeffries, Keaton, D. Kelly, Kessinger, Kimble, Kimes, Mallow, Mandt, Pinson, Rohrbach, Rowan, Toney, Wamsley, B. Ward, G. Ward and Hanshaw (Mr. Speaker).

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Linville, Longanacre, Martin, Thompson and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4826) passed.

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

H. B. 4842, Relating to obscene matter to minors; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 347)**, and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Hamrick, Householder, Jennings, Linville, Longanacre, Martin and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4842) passed.

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

H. B. 4844, Relating to public school personnel; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 348)**, and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Conley, Espinosa, Hamrick, Householder, Jennings, Linville, Martin and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4844) passed.

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

H. B. 4845, Establishing the Katherine Johnson Academy; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 349)**, and there were—yeas 94, nays none,

absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Householder, Jennings, Linville, Martin and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4845) passed.

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

H. B. 4846, Relating to flying under the influence and other aviation offenses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 350)**, and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Householder, Jennings, Linville, Martin, Miller and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4846) passed.

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

H. B. 4847, Relating to missing persons generally; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 351)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Householder, Jennings, Linville, Martin and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4847) passed.

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

In the absence of objection, the House returned to further consideration of Com. Sub. for H. B. 2910.

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

Com. Sub. for H. B. 2910 – "A Bill to amend and reenact §50-1-2, §50-1-3, and §50-1-13 of the Code of West Virginia, 1931, as amended, all relating generally to magistrates; relating to the allocation of magistrates serving in each county; setting a standardized formula for magistrate apportionment; providing for adjustment of those numbers of magistrates every 10 years following the census; removing the cap of 158 magistrates statewide; requesting the Chief Justice of the Supreme Court of Appeals develop a rule creating a system in which magistrates may be assigned on a temporary rotating basis outside the county of their election or appointment to preside over initial appearances, petitions for domestic violence, emergency protective orders, emergency mental hygiene petitions, emergency juvenile delinquency petitions, and applications for issuance of search warrants in counties in which he or she was not elected or appointed; granting the court authority to organize the system on a circuit-wide or regional basis as the court chooses; clarifying that magistrates may preside remotely if the Supreme Court of Appeals determines it appropriate; and eliminating antiquated language."

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

H. B. 4848, Relating to nonintoxicating beer, wine and liquor licenses; on third reading, coming up in regular order, with

amendment pending and the right to amend, was reported by the Clerk.

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

Whereupon,

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

Delegate Steele then moved to amend the bill on page 1, by striking everything after the enacting clause and inserting in lieu thereof, the following:

"**CHAPTER 11. TAXATION.**

ARTICLE 16. NONINTOXICATING BEER.

§11-16-6d. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed Class A retail dealer or a third party; requirements; limitations; third party license fee; retail transportation permit; and requirements.

(a) A Class A retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed growlers, when separately licensed for growler sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by telephone, a mobile ordering application, or a web-based software program, as authorized by the licensee's license. There is no additional fee for licensed Class A retail dealers to obtain a nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class A retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer through telephone orders, a mobile ordering application, or a web-based software program. The annual nonintoxicating beer or nonintoxicating craft beer delivery license fee is $200 per third party entity, with no limit on the number of drivers and vehicles. The delivery license fee under this subsection may not be prorated nor refunded.

(c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall comply with licensure requirements in §11-16-8 of this code, and shall require any information set forth in this article and as reasonably required by the commissioner.

(d) *Sale Requirements.* —

(1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of the prepared food or meal and nonintoxicating beer or nonintoxicating craft beer by the Class A retail dealer or third party licensee;

(2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating craft beer;

(3) 'Prepared food or a meal' shall, for purposes of this article, mean food that has been cooked, grilled, fried, deep-fried, air-fried,

smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of multiple meals shall not amount to any combination of bottles, cans, or sealed growlers in excess of 384 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and

(5) A third party delivery licensee may not have a pecuniary interest in a Class A retail dealer, as set forth in this article, therefore a third party delivery licensee may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third party licensee may not collect a percentage of the delivery order for the delivery of alcohol, but may continue to collect a percentage of the delivery order directly related to the prepared food or a meal. ~~The convenience fee charged by the third party delivery licensee to the person purchasing may not be greater than five dollars per delivery order where nonintoxicating beer or nonintoxicating craft beer are ordered by the purchasing person. For any third party licensee also licensed for wine growler delivery as set forth in §60-8-6c of the code, or craft cocktail growler delivery as set forth in §60-7-8f of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed five dollars.~~

(e) *Delivery Requirements*. —

(1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older. The licensed Class A retail dealer and the third party delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A Class A retail dealer or third party delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and shall submit certification of the training to the commissioner;

(3) The Class A retail dealer or third party delivery licensee shall hold a retail transportation permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft beer pursuant to §11-16-6d(g) of this code: *Provided*, That a delivery driver may retain an electronic copy of his or her permit;

(4) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer orders in the county or contiguous counties where the Class A retail dealer is located;

(5) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia. A Class A retail dealer or third party delivery licensee shall pay and account for all sales and municipal taxes;

(6) A Class A retail dealer or third party delivery licensee may not deliver prepared food or a meal, and nonintoxicating beer or nonintoxicating craft beer to any other Class A licensee;

(7) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer for personal use, and not for resale; and

(8) A Class A retail dealer or third party delivery licensee shall not deliver and leave prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the prepared food or a meal, and nonintoxicating beer or nonintoxicating craft beer delivery which is subject to age verification upon delivery with the delivery person's visual review and age verification ~~and, as applicable, a~~

~~stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used ~~shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and~~ shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery person for verification, ~~and~~ shall include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. A Class A retail dealer or third party delivery licensee shall retain all records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer must be issued a retail transportation permit per §11-16-6d(g) of this code.

(g) *Retail Transportation Permit.* —

(1) A Class A retail dealer or third party delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and nonintoxicating beer or nonintoxicating craft beer.

(2) A Class A retail dealer or a third party licensee shall apply for a permit and provide vehicle and driver information, as required by the commissioner. Upon any change in vehicles or drivers, the Class A retail dealer or third party delivery licensee shall update the vehicle and driver information with the commissioner within 10 days of the change.

(h) *Enforcement*. —

(1) A Class A retail dealer or third party delivery licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple Class A retail dealers or licensees, employees, or independent contractors.

(2) A license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the Class A retail dealer or third party delivery licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a growler subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, or accepting delivery of orders are considered to be purchasers.

§11-16-6f. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed Class B retail dealer or a third party; requirements; limitations; third party license fee; retail transportation permit; and requirements.

(a) A Class B retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed growlers, when separately licensed for growler sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by a telephone, a mobile ordering application, or web-based software program, as authorized by the licensee's license. There is no additional fee for licensed Class B retail dealers to obtain a nonintoxicating beer or nonintoxicating

craft beer delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class B retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer through a telephone order, a mobile ordering application, or web-based software program. The nonintoxicating beer or nonintoxicating craft beer delivery annual license fee is $200 per third party licensee, with no limit on the number of drivers and vehicles. The delivery license fee under this subsection may not be prorated nor refunded.

(c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall comply with licensure requirements in §11-16-8 of this code and shall require any information set forth in this article and as reasonably required by the commissioner.

(d) *Sale Requirements.* —

(1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and nonintoxicating beer or nonintoxicating craft beer by the licensee or third party licensee;

(2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and meet the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating craft beer;

(3) Food, for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of food and any combination of sealed nonintoxicating beer or nonintoxicating craft beer bottles, cans, or growlers shall not be in excess of 384 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and

(5) A third party delivery licensee shall not have a pecuniary interest in a Class B retail dealer, as set forth in this article. A third party delivery licensee may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third party licensee may not collect a percentage of the delivery order for the delivery of nonintoxicating beer or nonintoxicating craft beer, but may continue to collect a percentage of the delivery order directly related to food. ~~The convenience fee charged by the third party delivery licensee to the purchasing person may not be greater than five dollars per delivery order. For any third party licensee also licensed for wine delivery as set forth in §60-8-6f of this code the total convenience fee for any order, sale, and delivery of sealed wine may not exceed five dollars.~~

(e) *Delivery Requirements.* —

(1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older. A Class B retail dealer and a third party licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A Class B retail dealer and a third party licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and submit the certification of the training to the commissioner;

(3) The Class B retail dealer or third party delivery licensee shall hold a retail transportation permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft beer

pursuant to §11-16-6f(g) of this code: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of the licensure;

(4) A Class B retail dealer and a third party licensee may deliver food and sealed nonintoxicating beer or nonintoxicating craft beer orders in the county where the Class B retail dealer is located;

(5) A Class B retail dealer and a third party licensee may only deliver food and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia. A Class B retail dealer and a third party licensee shall pay and account for all sales and municipal taxes;

(6) A Class B retail dealer and a third party licensee may not deliver food and nonintoxicating beer or nonintoxicating craft beer to any other Class B licensee;

(7) Deliveries of food and sealed nonintoxicating beer or nonintoxicating craft beer are only for personal use, and not for resale; and

(8) A Class B retail dealer and a third party licensee shall not deliver and leave food and sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the food and nonintoxicating beer or nonintoxicating craft beer delivery. The delivery is subject to age verification upon delivery with the delivery person's visual review and age verification ~~and, as applicable, requires a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used ~~must create a stored record and image of the purchasing~~

~~person's legal identification and details of the sale, accessible by the delivery person for verification, and~~ shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery person for verification, ~~and~~ shall include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. A Class B retail dealer and a third party licensee shall retain all records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer shall be issued a retail transportation permit in accordance with §11-16-6f(g) of this code.

(g) *Retail Transportation Permit. —*

(1) A Class B retail dealer and a third party licensee shall obtain and maintain a retail transportation permit for the delivery of food and nonintoxicating beer or nonintoxicating craft beer.

(2) A Class B retail dealer or a third party licensee shall apply for a permit and provide vehicle and driver information, required by the commissioner. Upon any change in vehicles or drivers, Class B retail dealer and a third party licensee shall update the vehicle and driver information with the commissioner within 10 days of the change.

(h) *Enforcement. —*

(1) The Class B retail dealer and a third party licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple Class B retail dealers or third party licensees, employees, or independent contractors.

(2) A license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the Class B retail dealer or third party licensee, their employees, or independent contractors.

(3) It is a violation for any Class B retail dealer or third party licensee, their employees, or independent contractors to break the seal of a growler subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, or accepting delivery of orders are considered to be purchasers.

§11-16-8. Form of application for license; fee and bond; refusal of license.

(a) A license may be issued by the commissioner to any person who submits an application, accompanied by a license fee and, where required, a bond, and states under oath:

(1) The name and residence of the applicant, the duration of ~~such~~ the residency, and that the applicant is 21 years of age. If the applicant is a firm, association, partnership, limited partnership, limited liability company, or corporation, the application shall include the residence of the members or officers. If a person, firm, partnership, limited partnership, limited liability company, association, corporation, or trust applies for a license as a distributor, the person, or in the case of a firm, partnership, limited partnership, limited liability company, association or trust, the members, officers, trustees or other persons in active control of the activities of the limited liability company, association or trust relating to the license, shall include the residency for these persons on the application. All applicants and licensees ~~must~~ shall include a manager on the applicant's license application, or a licensee's renewal application who ~~must~~ shall meet all other requirements of licensure, including, but not limited to, United States citizenship or naturalization, passing a background investigation, being at least 21 years of age, ~~being a suitable person, being of good morals and~~

~~character,~~ and other requirements, all as set forth in this article and the rules, promulgated thereunder, all in the interest of protecting public health and safety ~~and being a suitable applicant or licensee~~. In order to maintain licensure, a licensee shall notify the commissioner immediately of a change in managers. If the applicant is a trust or has a trust as an owner, the trustees, or other persons in active control of the activities of the trust relating to the license shall provide a certification of trust as described in §44D-10-1013 of this code. This certification of trust shall include the excerpts described in §44D-10-1013(e), of this code and shall further state, under oath, the names, addresses, Social Security numbers and birth dates of the beneficiaries of the trust and certify that the trustee and beneficiaries are 21 years of age or older. If a beneficiary is not 21 years of age, the certification of trust ~~must~~ shall state that the beneficiary's interest in the trust is represented by a trustee, parent, or legal guardian who is 21 years of age and who will direct all actions on behalf of the beneficiary related to the trust with respect to the distributor until the beneficiary is 21 years of age. Any beneficiary who is not 21 years of age or older shall have his or her trustee, parent, or legal guardian include in the certification of trust and state under oath his or her name, address, Social Security number, and birth date;

(2) The place of birth of applicant, that he or she is a citizen of the United States ~~and of good moral character~~ and, if a naturalized citizen, when and where naturalized. If the applicant is a corporation organized or authorized to do business under the laws of the state, the application ~~must~~ shall state when and where incorporated, the name and address of each officer, and that each officer is a citizen of the United States ~~and a person of good moral character~~. If the applicant is a firm, association, limited liability company, partnership, limited partnership, trust, or has a trust as an owner, the application shall provide the place of birth of each member of the firm, association, limited liability company, partnership or limited partnership and of the trustees, beneficiaries, or other persons in active control of the activities of the trust relating to the license and that each member or trustee, beneficiary or other persons in active control of the activities of the trust relating to the license is a citizen of the United States, and if a

naturalized citizen, when and where naturalized, each of whom ~~must~~ shall qualify and sign the application;

(3) The particular place for which the license is desired and a detailed description thereof;

(4) The name of the owner of the building and, if the owner is not the applicant, that the applicant is the actual and bona fide lessee of the premises;

(5) That the place or building in which is proposed to do business conforms to all applicable laws of health, fire, and zoning regulations and is a safe and proper place or building; not within 300 feet of a ~~school or~~ church measured from front door to front door, along the street or streets. This requirement does not apply to a Class B license or to a place occupied by a beer licensee so long as it is continuously so occupied. The prohibition against locating a proposed business in a place or building within 300 feet of a church does not apply to a church that notifies the commissioner, in writing, that it has no objection to the location of the proposed business. ~~The prohibition against locating a proposed business in a place or building within 300 feet of a school does not apply to a college or university that has notified the commissioner, in writing, that it has no objection to the location of a proposed business in a place or building within 300 feet of the college or university~~

(6) That the applicant is not incarcerated and has not, in the previous five years before application, (A) been convicted of a felony, (B) been convicted of a crime involving fraud, dishonesty or deceit, and/or (C) been convicted of a felony for violating alcohol-related distribution laws; ~~during the five years preceding the date of said application been convicted of a felony;~~

(7) That the applicant is the only person in any manner pecuniarily interested in the business so asked to be licensed and that no other person is in any manner pecuniarily interested during the continuance of the license; and

(8) That the applicant has not during five years preceding the date of the application had a nonintoxicating beer license revoked.

(b) In the case of an applicant that is a trust or has a trust as an owner, a distributor license may be issued only upon submission by the trustees or other persons in active control of the activities of the trust relating to the distributor license of a true and correct copy of the written trust instrument to the commissioner for his or her review. Notwithstanding any provision of law to the contrary, the copy of the written trust instrument submitted to the commissioner pursuant to this section is confidential and is not a public record and is not available for release pursuant to the West Virginia Freedom of Information Act codified in §29B-1-1 *et seq.* of this code.

(c) The provisions and requirements of subsection (a) of this section are mandatory prerequisites for the issuance and, if any applicant fails to qualify, the license shall be refused. In addition to the information furnished in any application, the commissioner may make such additional and independent investigation of each applicant, manager, and of the place to be occupied as necessary or advisable and, for this reason, all applications, with license fee and bond, ~~must~~ shall be submitted with all true and correct information. For the purpose of conducting ~~such~~ the independent investigation, the commissioner may withhold the granting or refusal to grant the license for a 30-day period or until the applicant has completed the conditions set forth in this section. If it appears that the applicant and manager meet the requirements in the code and the rules, including, but not limited to, has not been convicted of a felony in the previous five years before application, has not been convicted of a crime involving fraud, dishonesty or deceit in the previous five years before application, has not been convicted of a felony for violating any alcohol-related distribution laws; ~~being a suitable person of good reputation and morals;~~ having made no false statements or material misrepresentations; involving no hidden ownership; and having no persons with an undisclosed pecuniary interest contained in the application; and if there are no other omissions or failures by the applicant to complete the application, as determined by the commissioner, the commissioner shall issue a license authorizing the applicant to sell nonintoxicating beer or nonintoxicating craft beer.

(d) The commissioner may refuse a license to any applicant under the provisions of this article if the commissioner determines ~~is of the opinion~~:

(1) That the applicant or manager has, within the previous five years before application, (A) been convicted of a felony within the previous five years, (B) been convicted of a crime involving fraud, dishonesty, or deceit, or (C) been convicted of a felony for violating any alcohol-related distribution laws; ~~is not a suitable person to be licensed;~~

(2) That the place to be occupied by the applicant is not a suitable place; or is within 300 feet of any school or church measured from front door to front door along the street or streets. This requirement does not apply to a Class B licensee or to a place now occupied by a beer licensee. The prohibition against locating any such place within 300 feet of a school or church does not apply to any school or church that has notified the commissioner, in writing, that is has no objection to the location of any such place within 300 feet. The prohibition against locating any such place within 300 feet of a school does not apply to a college or university; ~~so long as it is continuously so occupied. The prohibition against locating any such place within 300 feet of a school does not apply to a college or university that has notified the commissioner, in writing, that it has no objection to the location of any such place within 300 feet.~~

(3) That the manager, owner, employee, or person is in a contractual relationship to provide goods or services to the applicant is an active employee of the commissioner; or

(4) That the license should not be issued for reason of conduct declared to be unlawful by this article.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 1. GENERAL PROVISIONS.

§60-1-3a. Off-premises sales not required to be bagged.

Subject to the provisions of this chapter, alcoholic liquors, in this state are not required to be placed in bag by a licensee who is licensed for off-premises sales of alcoholic liquors.

ARTICLE 3. SALES BY COMMISSIONER.

§60-3-22. Sales to certain persons prohibited.

(a) Alcoholic liquors and nonintoxicating beer as defined in §11-16-3 of this code shall not be sold to a person who is:

(1) Less than 21 years of age;

~~(2) An habitual drunkard;~~

(~~3~~2) Intoxicated; or

~~(4) Addicted to the use of any controlled substance as defined by any of the provisions of chapter sixty-a of this code; or~~

(~~5~~3) Mentally incompetent.

(b) It shall be a defense to a violation of subdivision (1), subsection (a) of this section if the seller shows that the purchaser:

(1) Produced written evidence which showed his or her age to be at least the required age for purchase and which bore a physical description of the person named on the writing which reasonably described the purchaser; or

(2) Produced evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age.

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.

§60-3A-3a. Liquor sampling.

(a) Notwithstanding any provision of this code to the contrary, a Class A retail licensee may~~, with the written approval of the commissioner,~~ conduct a liquor sampling event on a designated sampling day.

(b) At least five business days prior to the liquor sampling, the Class A retail licensee shall submit a written proposal to the commissioner ~~requesting to~~ informing the Commissioner that the Class A licensee will hold a liquor sampling event, including:

(1) The day of the event;

(2) The location of the event;

(3) The times for the event; and

(4) The specific brand and flavor of the West Virginia product to be sampled.

(c) Upon approval by the commissioner, a Class A retail licensee may serve a complimentary liquor sample of the approved brand and flavor of the West Virginia product that is purchased by the Class A retail licensee from the commissioner.

(d) The complimentary liquor samples on any sampling day shall not exceed:

(1) One separate and individual sample serving per customer verified to be 21 years of age or older; and

(2) One ounce in total volume.

(e) Servers at the liquor sampling event shall:

(1) Be employees of the Class A retail licensee; and

(2) Be at least 21 years of age or older.~~; and~~

~~(3) Have specific knowledge of the West Virginia product being sampled to convey to the customer.~~

(f) All servers at the liquor sampling event shall verify the age of the customer sampling liquor by requiring and reviewing proper forms of identification. Servers at the liquor sampling event may not serve any person who is:

(1) Under the age of 21 years;

(2) Intoxicated.

(g) A liquor sampling event shall:

(1) Occur only inside the Class A retail licensee's licensed premises; and

(2) Cease on or before 9:00 p.m. on any approved sampling day.

(h) Any liquor bottle used for sampling must be from the inventory of the licensee, and clearly and conspicuously labeled 'SAMPLE, NOT FOR RESALE'. If the seal is broken on any liquor bottle or if any liquor bottle is opened, then that liquor bottle must be removed from the licensed premises immediately following the event.

(i) Violations of this section are subject to the civil and criminal penalties set forth in sections twenty-four, twenty-five-a, twenty-six and twenty-seven of this article;

~~(j) To implement the provisions of this section, the commissioner may promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code or propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code.~~

§60-3A-3b. Private liquor delivery license for a retail liquor outlet or a third party; requirements; limitations; third party license fee; private liquor bottle delivery permit; requirements, and curbside in-person and in-vehicle delivery by a retail liquor outlet.

(a) A retail liquor outlet that is licensed to sell liquor for off-premises consumption may apply for a private liquor delivery license permitting the order, sale, and delivery of sealed liquor bottles or cans in the original container. The order, sale, and delivery of sealed liquor bottles or cans in the original container is permitted for off-premises consumption when completed by the licensee to a person purchasing the sealed liquor bottles or cans

through a telephone, a mobile ordering application, or a web-based software program, authorized by the licensee's license. There is no additional fee for a licensed retail liquor outlet to obtain a private liquor delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for liquor sales or distribution, may apply for a private liquor delivery license for the privilege of ordering and delivery of sealed liquor bottles or cans, from a licensed retail liquor outlet. The order and delivery of sealed liquor bottles or cans permitted for off-premises consumption by a third party licensee when a retail liquor outlet sells to a person purchasing the sealed liquor bottles or cans through telephone orders, a mobile ordering application, or a web-based software program. The private liquor delivery license non-prorated, nonrefundable annual fee is $200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private liquor delivery license application shall comply with licensure requirements in this article and shall provide any information required by the commissioner.

(d) Sale Requirements. -

(1) The purchase of sealed liquor bottles or cans in the original container may accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and sealed liquor bottles or cans in the original container by the licensee or third party licensee;

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this chapter for the sale of alcoholic liquors and in §11-16-1 *et seq.* of the code, for nonintoxicating beer or nonintoxicating craft beer.

(3) 'Food', for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of up to five 750 milliliter sealed liquor bottles for each order: *Provided*, That the entire delivery order may not contain any combination of sealed liquor bottles or cans in the original container, where the combination is more than 128 fluid ounces of liquor total; and

(5) A third party delivery licensee shall not have a pecuniary interest in a retail liquor outlet, as set forth in this article. A third party private liquor delivery licensee may only charge a convenience fee for the delivery of any alcohol. The third party private liquor delivery licensee may not collect a percentage of the liquor delivery order, but may continue to collect a percentage of the delivery order directly related to food. ~~The convenience fee charged by the third party private liquor delivery licensee to the purchasing person shall be no greater than five dollars per delivery order where a sealed liquor bottle or can in the original container is ordered by the purchasing person. For any third party licensee also licensed for other nonintoxicating beer or nonintoxicating craft beer delivery pursuant to §11-16-1 *et seq.* of this code, wine delivery pursuant to §60-8-1 *et seq.* of this code, or a sealed craft cocktail growler delivery pursuant to §60-7-1 *et seq.* of this code, the total convenience fee of any order, sale, and delivery of sealed alcoholic liquor or nonintoxicating beer, or nonintoxicating craft beer shall not exceed five dollars.~~

(e) *Private Liquor Delivery Requirements.* —

(1) Delivery persons employed for the delivery of a sealed liquor bottles or cans in the original container shall be 21 years of age or older and a retail liquor outlet and a third-party private liquor delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A retail liquor outlet and a third-party private liquor delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. A retail liquor outlet and a third-party private liquor delivery licensee shall submit certification of the training to the commissioner;

(3) The retail liquor outlet or third party private liquor delivery licensee shall hold a private liquor bottle delivery permit for each vehicle delivering a sealed liquor bottle or can in the original container pursuant to subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) A retail liquor outlet or third party private liquor delivery licensee shall deliver food and a sealed liquor bottle or can order in the original container in the market zone or contiguous market zone where the licensed retail liquor outlet is located;

(5) A retail liquor outlet or third party private liquor delivery licensee may only deliver food and a sealed liquor bottle or can in the original container to addresses located in West Virginia, The retail liquor outlet or third party private liquor delivery licensee shall pay and account for all sales and municipal taxes;

(6) A retail liquor outlet or third party private liquor delivery licensee may not deliver food and a sealed liquor bottle or can in the original container to any licensee licensed under §11-16-1 *et seq.* of this code, and under this chapter;

(7) Deliveries of food and a sealed liquor bottle or can in the original container are only for personal use, and not for resale; and

(8) A retail liquor outlet or third party private liquor delivery licensee shall not deliver and leave food and a sealed liquor bottle or can in the original container at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person shall only permit the person who placed the order through a telephone order, a mobile ordering application ~~applicant~~, or web-based software to accept the food and a sealed liquor bottle or can in the original container for delivery which is subject to verification upon delivery with the delivery person's visual review and verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used shall ~~create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall~~ include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, ~~accessible by the delivery driver for verification,~~ and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. A retail liquor outlet or third party private liquor delivery licensee shall retain records for three years, and shall not unreasonably withhold the records from the commissioner's inspection; and

(5) The retail liquor outlet or third party delivery licensee shall hold a valid private liquor bottle delivery permit required by subsection (g) of this section for each vehicle that may offer delivery.

(g) *Private Liquor Bottle Delivery Permit*. —.

(1) A retail liquor outlet or third party delivery licensee shall obtain and maintain a retail transportation permit for the delivery of and a sealed liquor bottle or can in the original container.

(2) A retail liquor outlet or third party private delivery licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) Subject to the requirement of §60-6-12 of this code, a private liquor bottle delivery permit shall meet the requirements of a transportation permit authorizing the permit holder to transport liquor subject to the requirements of this chapter.

(h) *Enforcement*. —

(1) The retail liquor outlet or the licensed third party are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a sealed liquor bottle. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this chapter.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

(i) Retail liquor outlets licensed for off-premises sales of sealed liquor bottles and cans in the original container may provide for the sale and curbside in-person or in-vehicle pick-up of sealed liquor bottles or cans in the original container, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

(j) Retail liquor outlets licensed for off-premises sales of sealed liquor bottles and cans in the original container may provide for the sale and delivery through a drive up or drive through structure, approved by the commissioner, of sealed liquor bottles or cans in the original container, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

§60-3A-8. Retail license application requirements; retail licensee qualifications.

(a) Prior to or simultaneously with the submission of a bid for a retail license or the payment of a purchase option for a Class A

retail license, each applicant shall file an application with the commissioner, stating under oath, the following:

(1) If the applicant is an individual, his or her name and residence address;

(2) If the applicant is other than an individual, the name and business address of the applicant; the state of its incorporation or organization; the names and residence addresses of each executive officer and other principal officer, partner, or member of the entity; a copy of the entity's charter or other agreement under which the entity operates; the names and residence addresses of any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership, or other interests in the applicant; and all applicants and licensees must list a manager on the applicant's license application, or a licensee's renewal application, and further that the manager shall meet all other requirements of licensure, including, but not limited to, United States citizenship or naturalization, passing a background investigation, being at least 21 years of age, ~~being a suitable person, being of good morals and character,~~ and other requirements, all as set forth in the code and the legislative rules, in order for the manager to be able to meet and conduct any regulatory matters, including, but not limited to, licensure or enforcement matters related to the applicant or licensee all in the interest of protecting public health and safety and being a suitable applicant or licensee. In order to maintain active licensure, any change by a licensee in any manager listed on an application must be made immediately to the commissioner, in order to verify that the new manager meets licensure requirements;

(3) That the applicant and manager have <u>not</u> ~~never~~ <u>(A)</u> been convicted in this state or any other state of any felony <u>in the five years preceding the date of application</u> or <u>(B)</u> other crime involving ~~moral turpitude~~ <u>fraud, dishonesty, or deceit in the five years preceding the date of application,</u> or <u>(C) been</u> convicted of any felony in this or any other state court or any federal court for a violation of <u>alcohol-related distribution laws</u> ~~any state or federal liquor law~~, and if the applicant is other than an individual, that none of its executive officers, other principal officers, partners, or members, or any person owning, directly or indirectly, at least 20

percent of the outstanding stock, partnership, or other interests in the applicant, has been convicted; and

(4) That the applicant and the manager, each is a United States citizen ~~of good moral character~~ and, if a naturalized citizen, when and where naturalized; and, if a corporation organized and authorized to do business under the laws of this state, when and where incorporated, with the name and address of each officer; that each officer is a citizen of the United States ~~and a person of good moral character~~; and if a firm, association, partnership, or limited partnership, that each member is a citizen of the United States and, if a naturalized citizen, when and where naturalized, each of whom must sign the application.

(b) An applicant and manager shall provide the commissioner any additional information requested by the commissioner including, but not limited to, authorization to conduct a criminal background and credit records check.

(c) Whenever a change occurs in any information provided to the commissioner, the change shall immediately be reported to the commissioner in the same manner as originally provided.

(d) The commissioner shall disqualify each bid submitted by an applicant under §60-3A-10 of this code and no applicant shall be issued or eligible to hold a retail license under this article, if:

(1) The applicant has been, within the five years preceding the date of application; (A) convicted in this state of any felony or (B) convicted of a ~~other~~ crime involving fraud, dishonesty, or deceit ~~moral turpitude~~ or (C) convicted of any felony in this or any other state court or any federal court for a violation of alcohol-related distribution laws ~~any state or federal liquor law~~; or

(2) Any executive officer or other principal officer, partner, or member of the applicant, or any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership, or other interests in the applicant, has been, within the five yeas preceding the date of application; (A) convicted in this state of any felony or (B) convicted of a ~~other~~ crime involving fraud,

dishonesty, or deceit ~~moral turpitude~~ or (C) convicted of any felony in this or any other state court or any federal court for a violation of alcohol-related distribution laws ~~any state or federal liquor law~~.

(e) The commissioner shall not issue a retail license to an applicant which does not hold a license issued pursuant to federal law to sell liquor at wholesale.

§60-3A-17. Wholesale prices set by commissioner; retail licensees to purchase liquor from state; transportation and storage; method of payment.

(a) The commissioner shall fix wholesale prices for the sale of liquor, other than wine, to retail licensees. The commissioner shall sell liquor, other than wine, to retail licensees according to a uniform pricing schedule. The commissioner shall obtain, if possible, upon request, any liquor requested by a retail licensee and those permitted to manufacture and sell liquor pursuant to section three, article four of this chapter.

(b) Wholesale prices shall be established in order to yield a net profit for the General Revenue Fund of not less than $6,500,000 annually on an annual volume of business equal to the average for the past three years. The net revenue derived from the sale of alcoholic liquors shall be deposited into the General Revenue Fund in the manner provided in section seventeen, article three of this chapter.

(c) Notwithstanding any provision of this code to the contrary, the commissioner shall specify the maximum wholesale markup percentage which may be applied to the prices paid by the commissioner for all liquor, other than wine, in order to determine the prices at which all liquor, other than wine, will be sold to retail licensees. A retail licensee shall purchase all liquor, other than wine, for resale in this state only from the commissioner, and the provisions of §60-6-12 and §60-6-13 of this code ~~of this chapter~~ shall not apply to the transportation of the liquor: *Provided,* That a retail licensee shall purchase wine from a wine distributor who is duly licensed under article eight of this chapter. All liquor, other than wine, purchased by retail licensees shall be stored in the state

at the retail outlet or outlets operated by the retail licensee: *Provided, however,* That the commissioner, in his or her discretion, may upon written request permit a retail licensee to store liquor at a site other than the retail outlet or outlets.

(d) The sale of liquor by the commissioner to retail licensees shall be paid by electronic funds transfer which shall be initiated by the commissioner on the business day following the retail licensees order or by money order, certified check or cashier's check which shall be received by the commissioner at least 24 hours prior to the shipping of the alcoholic liquors: *Provided,* That if a retail licensee posts with the commissioner an irrevocable letter of credit or bond with surety acceptable to the commissioner from a financial institution acceptable to the commissioner guaranteeing payment of checks, then the commissioner may accept the retail licensee's checks in an amount up to the amount of the letter of credit.

(e) (1) A retail licensee may not sell liquor to persons licensed under the provisions of article seven of this chapter at less than ~~one hundred ten~~ 115 percent of the retail licensee's cost as defined in §47-11A-6 of this code.

(2) A retail licensee may not sell liquor to the general public at less than 110 percent of the retail licensee's cost as defined in §47-11A-6 of this code.

§60-3A-19. Limitation on amount to be sold.

[Repealed.]

ARTICLE 4. LICENSES.

§60-4-10. Notice of application for license.

[Repealed.]

§60-4-22. Wholesale representatives' licenses.

A person, firm or corporation may not be or act or serve as an agent, broker or salesman selling or offering to sell or soliciting or

negotiating the sale of alcoholic liquor to the commission or to any distributor licensed pursuant to article eight of this chapter without first obtaining a license so to do in accordance with the provisions of this section. Only salaried employees of distilleries, manufacturers, producers or processors of alcoholic liquor may be licensed hereunder and no person may be licensed hereunder who sells or offers to sell alcoholic liquor to the commission or any distributor on a fee or commission basis. The commission shall be the licensing authority and may ~~grant to persons of good moral character~~ for the license herein provided and may refuse to grant such license to any person who has been, within the previous five years from the date of the application; (1) convicted of a felony ~~within ten years prior to his or her application for such license,~~ (2) convicted of a crime involving fraud, dishonesty, or deceit, or (3) convicted of a felony crime for a violation of alcohol-relating distribution laws; refuse to grant, suspend, or revoke licenses. Licenses shall be on an annual basis for the period from July 1, until June 30 next following. New and renewal licenses shall be granted only upon verified application to the commission presented on forms provided by the commission. Any person representing more than one producer, manufacturer or distributor of alcoholic liquors shall file a separate application and shall obtain a separate license for each such representation. The annual license fee shall be $10 ~~$100~~. The fee for any license granted for the remainder of any license year between January 1, and June 30 of the same calendar year shall be $5~~0~~.

~~No person who is the father, mother, son, daughter, brother, sister, uncle, aunt, nephew or niece of a member of the commission or of any elected or appointed state official, county official or municipal official, or who is the spouse of any such person so related to a member of the commission or to any elected or appointive state official, county official or municipal official, may be granted a license. No member of the Legislature or the spouse of any such member may be granted a license. Nor may any member or officer of any political party executive committee of this state or the spouse of any such member or officer be granted a license.~~

In addition to all other information which the commission may require to be supplied on the license application forms, each applicant shall be required to state his or her name and his or her residence address and the name and business address of the producer, manufacturer or distributor he or she represents; the name and address of each additional producer, manufacturer or distributor of alcoholic liquors he or she represents; the monetary total of all alcoholic liquor sales, if any, made by him or her to the commission or to any distributor licensed pursuant to article eight of this chapter during the fiscal year preceding the license year for which he or she is seeking a license; the monetary total of the gross income received by him or her on such sales, if any, during such fiscal year; whether he or she has, during such fiscal year, made or given, voluntarily or on request, any gift, contribution of money or property to any member or employee of the commission or of any distributor licensed pursuant to article eight of this chapter or to or for the benefit of any political party committee or campaign fund; and his or her relationship, if any, by blood or marriage, to any member of the commission or to any elected or appointive state official, county official or municipal official. All such applications shall be verified by oath of the applicant and shall be prepared and filed in duplicate. All such applications and a current list of all licensees hereunder shall be matters of public record and shall be available to public inspection at the commission's offices at the State Capitol. Every licensee who ceases to be an agent, broker, or salesman, as herein contemplated, shall so advise the commission in writing and such person's name shall be immediately removed from the license list and his or her license shall be canceled and terminated.

All persons licensed under this section shall be authorized representatives of the wineries, farm wineries, distilleries, mini-distilleries, manufacturers, producers or processors of alcoholic liquor they represent. A licensed person may not share, divide or split his or her salary with any person other than his or her wife or some legal dependent, nor may he or she make any contribution to any political party campaign fund in this state.

All licensees shall be subject to all other provisions of this chapter and to the lawful rules promulgated by the commission. Licenses may be refused, suspended or revoked by the commission for cause, including any of the applicable grounds of revocation specified in section nineteen of this article. Provisions of this article relating to notice, hearing and appeals shall, to the extent applicable, govern procedures on suspension and revocation of licenses hereunder.

Any person, firm or corporation violating any provision of this section, including knowingly making of any false statement in a verified application for a license shall be guilty of a misdemeanor offense and shall, upon conviction thereof, be fined not exceeding $1,000 or imprisoned in jail not exceeding twelve months, or be subject to both such fine and imprisonment in the discretion of the court.

§60-4-23. License to operate a facility where exotic entertainment is offered; definitions; restrictions, regulations and prohibitions; prohibitions against minors; application, renewal, license fee, restrictions on transfer; effective date; legislative rules; unlawful acts and penalties imposed.

(a) For purposes of this section:

(1) 'Exotic entertainment' means live nude dancing, nude service personnel or live nude entertainment, and 'nude' means any state of undress in which male or female genitalia or female breasts are exposed.

(2) 'Places set apart for traditional family-oriented naturism' means family nudist parks, clubs and resorts chartered by the American association for nude recreation or the naturist society, including all of their appurtenant business components, and also including places temporarily in use for traditional family-oriented naturist activities.

(b) No person may operate any commercial facility where exotic entertainment is permitted or offered unless such person is

granted a license by the commissioner to operate a facility where exotic entertainment may be offered. The provisions of this subsection apply whether or not alcoholic liquor, wine or nonalcoholic beer is legally kept, served, sold, or dispensed in a facility, or purchased for use in a facility, or permitted to be brought by others into a facility and whether or not such person holds any other license or permit issued pursuant to chapter 60 of this code.

(c) A licensee is subject to all the regulatory provisions of §60-7-1 *et seq.* of this code ~~chapter~~, whether or not the licensee is otherwise a private club. The commissioner shall have all the powers and authorization granted under §60-7-1 *et seq.* of this code ~~chapter~~ to regulate, restrict, and sanction a licensee under this section. No licensee may purchase, keep, sell, serve, dispense, or purchase for use in a licensed facility, or permit others to bring into the facility, any alcoholic liquor, wine, or nonintoxicating beer or nonintoxicating craft beer without having the appropriate license ~~therefor~~. No licensee may operate a private club without being licensed ~~therefor~~.

(d) No person or licensee may allow a person under the age of 18 years to perform as an exotic entertainer. No person under the age of 21 years, other than a performing exotic entertainer, may be allowed to be in a commercial facility on any day on which any exotic entertainment is offered therein. No licensee may hold special nonalcoholic entertainment events for persons under age 21 pursuant to the provisions of §60-7-8 of this code ~~chapter~~ in the licensed facility.

~~(e) Any person operating a commercial facility where exotic entertainment is offered on the effective date of this section may apply to the commissioner for a license to operate a facility where exotic entertainment may be offered. Applications must be filed with the commissioner on or before July 1, 2000; thereafter no application for license may be received by the commissioner. The commissioner may issue a license to a person complying with the provisions of this chapter. Upon application for renewal, the commissioner shall annually, on July 1, of each succeeding year, renew the license of any licensee then in compliance with the provisions of this chapter. The commissioner shall specify the form~~

~~of application and information required of applicants and licensees. No license which has lapsed, been revoked or expired without renewal may be reissued.~~

(~~f~~e) A person to whom a license is issued or renewed under the provisions of this section shall pay annually to the commissioner a license fee of $3,000. A municipal corporation wherein any such licensee is located shall issue a municipal license to any person to whom the commissioner has issued a license and may impose a license fee not in excess of the state license fee.

(~~g~~f) A person shall not sell, assign, or otherwise transfer a license without the prior written approval of the commissioner. For purposes of this section, the merger of a licensee or the sale of more than 50 percent of the outstanding stock of or partnership interests in the licensee shall be deemed to be a sale, assignment, or transfer of a license under this section. A license shall not be transferred to another location, except within the county of original licensure. A transferee of a licensed facility may apply for reissuance of the transferor's license if the transferee applicant otherwise qualifies for a license. The commissioner is authorized to propose the promulgation of a legislative rule in accordance with the provisions of chapter 29A of this code, to implement the provisions of this subsection.

~~(h) This section shall be effective upon passage by the Legislature in the year 2000. On or before May 1, 2000, the commissioner shall promulgate an emergency legislative rule pursuant to the provisions of chapter twenty-nine-a of this code to effectuate the provisions of this section, and shall propose a legislative rule therefor, for consideration by the Legislature, prior to December 31, 2000.~~

(~~i~~g) Any person who violates any provision of this section, or principal of a firm or corporation which violates any provision of this section, or licensee, agent, employee, or member of any licensee who violates any provision of this section, or who violates any of the provisions of §60-7-12 of this code ~~chapter~~, on the premises of a licensed facility, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $1,000 nor

more than $3,000, or imprisoned for a period not to exceed one year, or both so fined and imprisoned.

(~~j~~h) The provisions of this section do not apply to places set apart for traditional family-oriented naturist activities.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-24. Requirement for posting informational sign.

~~Each store or outlet controlled or operated by the state Alcohol Beverage Control Commission, and any store, supermarket, club, restaurant, or~~ Any licensee licensed under this chapter to sell alcoholic liquors, including liquor, wine, hard cider, ~~other facility selling alcoholic beverages or~~ nonintoxicating beer, or nonintoxicating craft beer for either ~~on-premise~~ on-premises or ~~off-premise~~ off-premises consumption, shall post in an open and prominent place within ~~such~~ the establishment a blood-alcohol chart containing information showing the estimated percent of alcohol in the blood by the number of drinks in relation to body weight and time of consumption, ~~as follows:~~

~~FORM OMITTED~~

~~FORM OMITTED~~

~~The size of display and location of said blood alcohol chart shall be prescribed by the commissioner, by rule and regulation~~ as provided in the chart available on the Commissioner's website. Enforcement of the posting provisions of this section shall be carried out by the ~~West Virginia nonintoxicating beer commissioner~~ Commissioner ~~in establishments which are~~ for all licensees required to post ~~such~~ the notice. ~~but are not subject to the supervision of the West Virginia Alcohol Beverage Control Commissioner~~

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-2. Definitions; authorizations; requirements for certain licenses.

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

~~(a)~~ 'Applicant' means a private club applying for a license under the provisions of this article.

~~(b)~~ 'Code' means the official Code of West Virginia, 1931, as amended.

~~(c)~~ 'Commissioner' means the West Virginia Alcohol Beverage Control Commissioner.

~~(d)~~ 'Licensee' means the holder of a license to operate a private club granted under this article, which remains unexpired, unsuspended, and unrevoked.

~~(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; (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; (3) is organized and operated for legitimate purposes which has at least 100 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.

'Private bakery' means an applicant for a private club or licensed private club licensee that has a primary function of operating a food preparation business that produces baked goods, including brownies, cookies, cupcakes, confections, muffins, breads, cakes, wedding cakes, and other baked goods. The applicant or licensee desires to sell baked goods infused with liquor, wine, or nonintoxicating beer or nonintoxicating craft beer either: (i) in the icing, syrup, drizzle, or some other topping; (ii) as an infusion where the alcohol is not processed or cooked out of the baked goods; or (iii) the alcohol can be added by the purchaser from an infusion packet containing alcohol no greater than 10 milliliters; *Provided*, That any bakery wishing to sell items less than one-half a percent are considered nonalcoholic and does not need a license pursuant to this section. This applicant or licensee may not sell liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on or off premises consumption unless properly licensed for such sales as a private club restaurant. This applicant or licensee may sell the baked goods with alcohol

added for on and off premises consumption. Further, the applicant or licensee shall meet the criteria set forth in this subsection which:

(1) Has at least 50 members;

(2) Operates a kitchen that produces baked goods, as noted above, including at least: (A) A baking oven and a four-burner range or hot plate; (B) a sink with hot and cold running water; (C) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer, which is not used for alcohol cold storage; (D) baking utensils and pans, kitchen utensils and other food consumption apparatus, as determined by the commissioner; and (E) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(3) Maintains, at any one time, $750 of food inventory capable of being prepared in the private bakery's kitchen. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, prepackaged foods, baking items such as flour, sugar, icing and other confectionary items, or canned prepared foods;

(4) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 who are in the private bakery are not served products containing alcohol, and a person under 21 years of age may purchase products sold by the private bakery that do not contain any alcohol; and

(5) Meets and is subject to all other private club requirements.

'Private cigar shop' means an applicant for a private club or licensed private club licensee that has a primary function of operating a cigar shop for sales of premium cigars for consumption on or off the licensed premises. Where permitted by law, indoor on-premises cigar consumption is permitted with a limited food menu (food requirements can be met by utilizing a private caterer) for members and guests while the private club applicant or licensee is selling and serving liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on-premises consumption. Further,

the applicant or licensee shall meet the criteria set forth in this subsection which:

(1) Has at least 50 members;

(2) Operates a cigar shop and bar with a kitchen, including at least: (A) A two-burner hot plate, air fryer, or microwave oven; (B) a sink with hot and cold running water; (C) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer, which is not used for alcohol cold storage; (D) kitchen utensils and other food consumption apparatus, as determined by the commissioner; and (E) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(3) Maintains, at any one time, $500 of food inventory capable of being prepared in the private club bar's kitchen or has on hand at least $150 in food provided by a private caterer. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, prepackaged foods, or canned prepared foods;

(4) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 may not be served any liquor, wine, nonintoxicating beer or nonintoxicating craft beer, persons under the age of 18 who are in the private cigar shop are accompanied by a parent or legal guardian, and if a person under 18 years of age is not accompanied by a parent or legal guardian that person may not be admitted as a guest; and

(5) Meets and is subject to all other private club requirements.

'Private caterer' means ~~a~~ any licensed entity ~~private club restaurant~~ authorized by the commissioner to cater and serve food and sell and serve alcoholic liquors, or non-intoxicating beer, or non-intoxicating craft beer. A private caterer shall purchase wine sold or served at a catering event from a wine distributor. A private caterer shall purchase nonintoxicating beer and nonintoxicating craft beer sold or served at the catering event from a licensed beer

distributor. A private caterer shall purchase liquor from a retail liquor outlet authorized to sell in the market zone, where the catering event is held. The private caterer or the persons or entity holding the catering event shall:

(1) Have at least 10 members and guests attending the catering event;

(2) Have obtained an open container waiver or have otherwise been approved by a municipality or county in which the event is being held;

(3) Operate a private club restaurant on a daily operating basis;

(4) Only use its employees, independent contractors, or volunteers to sell and serve alcoholic liquors who have received certified training in verifying the legal identification, the age of a purchasing person, and the signs of visible, noticeable, and physical intoxication;

(5) Provide to the commissioner, at least ~~7~~ seven days before the event is to take place:

(A) The name and business address of the unlicensed private venue where the private caterer is to provide food and alcohol for a catering event;

(B) The name of the owner or operator of the unlicensed private venue;

(C) A copy of the contract or contracts between the private caterer, the person contracting with the caterer, and the unlicensed private venue;

(D) A floorplan of the unlicensed private venue to comprise the private catering premises, which shall only include spaces in buildings or rooms of an unlicensed private venue where the private caterer has control of the space for a set time period where the space safely accounts for the ingress and egress of the stated members and guests who will be attending the private catering event at the catering premises. The unlicensed private venue's

floorplan during the set time period as stated in the contract shall comprise the private caterer's licensed premises, which is authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer, and wine throughout the licensed private catering premises; *Provided*, That the unlicensed private venue shall: (i) Be inside a building or structure, (ii) have other facilities to prepare and serve food and alcohol, (iii) have adequate restrooms, and sufficient building facilities for the number of members and guests expected to attend the private catering event, and (iv) otherwise be in compliance with health, fire, safety, and zoning requirements;

(6) Not hold more than 15 private catering events per calendar year. Upon reaching the 16th event, the unlicensed venue shall obtain its own private club license;

(7) Submit to the commissioner, evidence that any noncontiguous area of an unlicensed venue is within 150 feet of the private caterer's submitted floorplan and may submit a floorplan extension for authorization to permit alcohol and food at an outdoor event;

(8) Meet and be subject to all other private club requirements; and

(9) Use an age verification system approved by the commissioner.

~~(g)~~ 'Private club bar' means an applicant for a private club or licensed private club licensee that has a primary function for the use of the licensed premises as a bar for the sale and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer when licensed for ~~such~~ those sales, while providing a limited food menu for members and guests, and meeting the criteria set forth in this subsection which:

(1) Has at least 100 members;

(2) Operates a bar with a kitchen, including at least: (A) A two-burner hot plate, air fryer, or microwave oven; (B) a sink with hot and cold running water; (C) a 17 cubic foot refrigerator or freezer,

or some combination of a refrigerator and freezer, which is not used for alcohol cold storage; (D) kitchen utensils and other food consumption apparatus, as determined by the commissioner; and (E) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(3) Maintains, at any one time, $500 of food inventory capable of being prepared in the private club bar's kitchen. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, prepackaged foods, or canned prepared foods;

(4) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 18 who are in the private club bar are accompanied by a parent or legal guardian, and if a person under 18 years of age is not accompanied by a parent or legal guardian that person may not be admitted as a guest; and

(5) Meets and is subject to all other private club requirements.

'Private food truck' means an applicant for a private club, licensed private club licensee, or licensed private manufacturer's club licensee that has a primary function of operating a food preparation business using an industrial truck, van, or trailer to prepare food and meals while utilizing a propane or electric generator powered kitchen, for sale at various locations within the state. The private food truck applicant shall obtain county or municipal approval to operate for food and liquor, wine, and nonintoxicating beer or nonintoxicating craft beer sales and service, while displaying or otherwise making available a food menu for members and guests. The private food truck applicant shall meet the criteria set forth in this subsection which:

(1) Has at least 10 members;

(2) Operates with a kitchen, including at least: (A) A two-burner hot plate, air fryer, fryer, grill, or microwave oven; (B) a sink with hot and cold running water; (C) at least a 10 cubic foot refrigerator or freezer, or some combination of a refrigerator and

freezer, which is not used for alcohol cold storage; and (D) plastic or metal kitchen utensils and other food consumption apparatus, as determined by the commissioner;

(3) Maintains, at any one time, $500 of food inventory that is fit for human consumption and capable of being prepared and served from the private food truck's kitchen during all hours of operation;

(4) Shall be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private food truck is to be located and operate, and further each location shall have a bounded and defined area and set hours for private food truck operations, sales, and consumption of alcohol that are not greater than a private club's hours of operation;

(5) Provides the commissioner with a list of all locations, including a main business location, where the private food truck operates, and is approved for sales pursuant to subdivision (4) above, and update the commissioner when new locations are approved by a county or municipality;

(6) Requires all nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section to be purchased from the licensed distributor, all in accordance with §11-16-1 *et seq.* of this code.

(7) Requires wine or hard cider sold, furnished, tendered, or served pursuant to the license created by this section to be purchased from a licensed distributor, winery, or farm winery in accordance with §60-8-1 *et seq.* of this code.

(8) Requires liquor sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone, all in accordance with §60-3A-1 *et seq.* of this code.

(9) A licensee authorized by this section shall utilize bona fide employees to sell, furnish, tender, or serve the nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

(10) A brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery may obtain a private food truck license;

(11) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor broker representatives may attend a location where a private food truck is located and discuss their respective products but may not engage in the selling, furnishing, tendering, or serving of any nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

(12) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 are not served liquor, wine, nonintoxicating beer or nonintoxicating craft beer, but any person under the age of 21 may purchase and be served food or other nonalcoholic drinks;

(13) Obtains all permits required by §60-6-12 of this code; and

(14) Meets and is subject to all other applicable private club requirements.

~~(h)~~ 'Private club restaurant' means an applicant for a private club or licensed private club licensee that has a primary function of using the licensed premises as a restaurant for serving freshly prepared meals and dining in the restaurant area. The private club restaurant may have a bar area separate from or commingled with the restaurant, seating requirements for members and guests ~~must~~ shall be met by the restaurant area. The applicant for a private club restaurant license shall meet the criteria set forth in this subsection which:

(1) Has at least 100 members;

(2) Operate a restaurant and full kitchen with at least: (A) Ovens and four-burner ranges; (B) refrigerators or freezers, or some combination of refrigerators and freezers, greater than 50 cubic feet, or a walk-in refrigerator or freezer; (C) other kitchen utensils and apparatus, as determined by the commissioner; and (D)

freshly prepared food fit for human consumption available to be served during all hours of operation on the licensed premises;

(3) Maintains, at any one time, $1,000 of fresh food inventory capable of being prepared in the private club restaurant's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips, or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(4) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under 18 years of age who are in the bar area of a private club restaurant are accompanied by a parent or legal guardian. The licensee may not seat a person in the bar area who is under the age of 18 years and who is not accompanied by a parent or legal guardian, but may allow that person, as a guest, to dine for food and nonalcoholic beverage purposes in the restaurant area of a private club restaurant:

(5) May uncork and serve members and guests up to two bottles of wine that a member purchased from a wine retailer, wine specialty shop, an applicable winery or farm winery when licensed for retail sales, or a licensed wine direct shipper when the purchase is for personal use and, not for resale. The licensee may charge a corkage fee of up to $10 dollars per bottle. In no event may a member or a group of members and guests exceed two sealed bottles or containers of wine to carry onto the licensed premises for uncorking and serving by the private club restaurant and for personal consumption by the member and guests. A member or guest may cork and reseal any unconsumed wine bottles as provided in §60-8-3(j) of this code and the legislative rules, for carrying unconsumed wine off the licensed premises;

(6) ~~Must~~ Shall have at least two restrooms for members and their guests: *Provided*, That this requirement may be waived by the local health department upon supplying a written waiver of the requirement to the commissioner: *Provided, however*, That the requirement may also be waived for a historic building by written waiver supplied to commissioner of the requirement from the

historic association or district with jurisdiction over a historic building: *Provided, further* That in no event ~~shall~~ may a private club restaurant have less than one restroom; and

(7) Shall meet and be subject to all other private club requirements.

~~(i)~~ 'Private manufacturer club' means an applicant for a private club or licensed private club licensee which is also licensed as a distillery, mini-distillery, micro-distillery, winery, farm winery, brewery, or resident brewery that manufacturers liquor, wine, nonintoxicating beer, or nonintoxicating craft beer, which may be sold, served, and furnished to members and guests for on-premises consumption at the licensee's licensed premises and in the area or areas denoted on the licensee's floorplan, and which meets the criteria set forth in this subsection and which:

(1) Has at least 100 members;

(2) Offers tours, may offer complimentary samples, and may offer space as a conference center or for meetings;

(3) Operates a restaurant and full kitchen with ovens, four-burner ranges, a refrigerator, or freezer, or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 15 hours per week;

(4) Maintains, at any one time, $500 of fresh food inventory capable of being prepared in the private manufacturer club's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips, or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(5) Owns or leases, controls, operates, and uses acreage amounting to at least one acre which is contiguous bounded or fenced real property that would be listed on the licensee's floorplan and may be used for large 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 manufacturer club's floorplan that would comprise the licensed premises, which would be authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, and wine throughout the licensed premises, whether these activities were conducted in a building or structure or outdoors while on the private manufacturer club's licensed premises, and as noted on the private manufacturer club's floorplan;

(7) Identifies a person, persons, an entity, or entities who or which has right, title, and ownership or lease interest in the real property, buildings, and structures located on the proposed licensed premises;

(8) Uses an age verification system approved by the commissioner; and

(9) Meets and is subject to all other private club requirements.

~~(j)~~ 'Private fair and festival' means an applicant for a private club or a licensed private club meeting the requirements of §60-7-8a of this code for a temporary event, and the criteria set forth in this subsection which:

(1) Has at least 100 members;

(2) Has been sponsored, endorsed, or approved, in writing, by the governing body (or its duly elected or appointed officers) of either the municipality or of the county in which the festival, fair, or other event is to be conducted;

(3) Prepares, provides, or engages a food vendor to provide adequate freshly prepared food or meals to serve its stated members and guests who will be attending the temporary festival, fair, or other event, and further shall provide any such documentation or agreements ~~of such~~ to the commissioner prior to approval;

(4) Does not use third-party entities or individuals to purchase, sell, furnish, or serve alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer;

(5) Provides adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the festival, fair, or other event;

(6) Provides a floorplan for the proposed premises with a defined and bounded area to safely account for the ingress and egress of stated members and guests who will be attending the festival, fair, or other event;

(7) Uses an age verification system approved by the commissioner; and

(8) Meets and is subject to all other private club requirements.

~~(k)~~ 'Private 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 2,000 members;

(2) Offers short-term, daily rate accommodations or lodging for members and their guests amounting to at least 30 separate bedrooms, and also offers a conference center for meetings;

(3) Operates a restaurant and full kitchen with ovens, four-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 20 hours per week;

(4) Maintains, at any one time, $2,500 of fresh food inventory capable of being prepared in the private 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 more than one acre but fewer than three acres, which

are contiguous acres of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for hotel and conferences 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 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 hotel's licensed premises and as noted on the private hotel's floorplan;

(7) Has an identified person, 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;

(8) Uses an age verification system approved by the commissioner; ~~and~~

(9) Meets and is subject to all other private club requirements; and

(10) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have secure access to an in-room mini-bar in their rented short-term accommodation including limited amounts of liquor, wine, and nonintoxicating beer or nonintoxicating craft beer and any combination of canned or packaged food fit for consumption. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed

premises. The mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

~~(l)~~ '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 5,000 members;

(2) Offers short-term, daily rate accommodations or lodging for members and their guests amounting to at least 50 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 25 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 10 contiguous acres of bounded or fenced real property which would be listed on the licensee's 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, 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;

(8) Uses an age verification system approved by the commissioner;

(9) Meets and is subject to all other private club requirements; ~~and~~

(10) May have a separately licensed resident brewer with a brewpub license inner-connected via a walkway, doorway, or entryway, all as determined and approved by the commissioner, for limited access during permitted hours of operation for tours and complimentary samples at the resident brewery; and

(11) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have access to an in-room mini-bar in their rented short-term accommodation including limited amounts of liquor, wine, and nonintoxicating beer or nonintoxicating craft beer and any combination of canned or packaged food fit for consumption. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed premises. The mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

~~(m)~~ '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 100 members;

(2) Maintains at least one 18-hole golf course with separate and distinct golf playing holes, not reusing nine golf playing holes to comprise the 18 golf playing holes, and a clubhouse;

(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 15 hours per week;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least 80 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, persons, or entity that has right, title, and ownership interest in the real property, buildings, and structures located on the proposed licensed premises;

(7) Uses an age verification system approved by the commissioner; and

(8) Meets and is subject to all other private club requirements.

~~(n)~~ 'Private nine-hole golf course' 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 50 members;

(2) Maintains at least one nine-hole golf course with separate and distinct golf playing holes;

(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 15 hours per week;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least 30 contiguous acres of bounded or fenced real property which would be listed on the private nine-hole golf course'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 nine-hole golf course'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 nine-hole golf course's licensed premises and as noted on the private nine-hole golf course's floorplan;

(6) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(7) Uses an age verification system approved by the commissioner; and

(8) Meets and is subject to all other private club requirements.

~~(o)~~ 'Private tennis 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 100 members;

(2) Maintains at least four separate and distinct tennis courts, either indoor or outdoor, and a clubhouse or similar facility;

(3) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and is capable of serving freshly prepared food;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least two contiguous acres of bounded or fenced real property which would be listed on the private tennis club's floorplan and could be used for tennis events and large events such as weddings, reunions, conferences, tournaments, 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 tennis club's floorplan that 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 tennis club's licensed premises and as noted on the private tennis club's floorplan;

(6) Has identified a person, persons, an entity, or entities who or which has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(7) Meets and is subject to all other private club requirements; and

(8) Uses an age verification system approved by the commissioner.

'Private college sports stadium' means an applicant for a private club or licensed private club licensee that operates a college or university stadium for Division I, II, or III and involves a college or university that is a member of the National Collegiate Athletic Association, or its successor, and uses the facility for football, basketball, baseball, soccer, or other Division I, II, or III sports, reserved weddings, reunions, conferences, meetings, concerts, or other special events and does not maintain daily or regular operating hours as a bar or restaurant. The licensee may sell alcoholic liquors when conducting or temporarily hosting

noncollegiate sporting events. This license may be issued in the name of the National Collegiate Athletic Association Division I, II, or III college or university or the name of the primary food and beverage vendor under contract with that college or university. All alcohol sales shall take place within the confines of the college stadium: *Provided*, That any outside area approved for alcohol sales shall be surrounded by a fence or other barrier prohibiting entry except upon the college or university's express permission, and under the conditions and restrictions established by the college or university, so that the alcohol sales area is closed in order to prevent entry and access by the general public. Further the applicant shall:

(A) Have at least 100 members;

(B) Maintain an open air or closed air stadium venue primarily used for sporting events, such as football, basketball, baseball, soccer, or other Division I, II, or III sports, and also weddings, reunions, conferences, meetings, concerts, or other events where parties shall reserve the college stadium venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens and equipment that is at least equivalent to that of a private club restaurant on the licensed premises and capable of serving freshly prepared food, or meals to serve its stated members, guests, and patrons who will be attending the event at the private college sports stadium;

(D) Own or lease, control, operate, and use acreage amounting to at least one contiguous acre of bounded or fenced real property which would be listed on the private college stadium's floorplan and could be used for contracted for temporary non-collegiate sporting events, group-type weddings, reunions, conferences, meetings, concerts, or other events;

(E) List the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private college sports stadium'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 college sports stadium's licensed premises and as noted on the private college sports stadium's floorplan;

(F) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(G) Meet and be subject to all other private club requirements; and

(H) Use an age verification system approved by the commissioner.

~~(p)~~ 'Private professional sports stadium' means an applicant for a private club or licensed private club licensee that is only open for professional sporting events when ~~such~~ the events are affiliated with or sponsored by a professional sporting association, reserved weddings, reunions, conferences, meetings, concerts, or other special events and does not maintain daily or regular operating hours as a bar or restaurant. The licensee may ~~not~~ sell alcoholic liquors when conducting or hosting non-professional sporting events, when providing prior notice to the commissioner, and further the applicant shall:

(1) Have at least 1000 members;

(2) Maintain an open air or closed air stadium venue primarily used for sporting events, such as football, baseball, soccer, auto racing, or other professional sports, and also weddings, reunions, conferences, meetings, concerts, or other events where parties ~~must~~ shall reserve the stadium venue in advance of the event;

(3) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and capable of serving freshly prepared food, or meals to serve its stated members, guests, and patrons who will be attending the event at the private professional sports stadium;

(4) Own or lease, control, operate, and use acreage amounting to at least 3 contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the professional sports stadium's floorplan and could be used for contracted for professional sporting events, group-type weddings, reunions, conferences, meetings, or other events;

(5) List the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private professional sports stadium'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 professional sports stadium's licensed premises and as noted on the private professional sports stadium's floorplan;

(6) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(7) Meet and be subject to all other private club requirements; and

(8) Use an age verification system approved by the commissioner.

~~(q)~~ 'Private farmers market' means an applicant for a private club or licensed private club licensee that operates as an association of bars, restaurants, retailers who sell West Virginia made products among other products, and other stores who open primarily during daytime hours of 6:00 a.m. to 6:00 p.m., but may operate in the day or evenings for special events where the sale of food and alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer may occur for on-premises consumption, such as reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant, and all business that are members of the association have agreed in writing to be liable and responsible for all sales, service, furnishing,

tendering and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer occurring on the entire licensed premises of the private farmer's market, including indoor and outdoor bounded areas, and further the applicant shall:

(1) Have at least 100 members;

(2) Have one or more members operating a private club restaurant and full kitchen with ovens, four-burner ranges, a refrigerator, or freezer (or some combination of the two), and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 15 hours per week;

(3) Have one or more members operating who maintain, at any one time, $1,000 of fresh food inventory capable of being prepared for events conducted at the private farmers market in the private club restaurant's full kitchen, and in calculating the food inventory the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(4) Have an association that owns or leases, controls, operates, and uses acreage amounting to more than one acre, which is contiguous acreage of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for large contracted for reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events;

(5) Have an association that lists in the application for licensure the entire property and all adjoining buildings and structures on the private farmers market's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private farmers market's licensed premises and as noted on the private farmers market's floorplan;

(6) Have an identified person, 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;

(7) Have at least two separate and unrelated vendors applying for the license and certifying that all vendors in the association have agreed to the liability, responsibility associated with a private farmers market license;

(8) Only use its employees, independent contractors, or volunteers to purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer, or nonintoxicating craft beer;

(9) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private farmers market;

(10) Provide a copy of a written agreement between all the vendors of the association that is executed by all vendors stating that each vendor is jointly and severally liable for any violations of this chapter committed during the event;

(11) Provide a security plan indicating all vendor points of service, entrances, and exits in order to verify members, patrons, and guests ages, whether a member, patron, or guest is intoxicated and to provide for the public health and safety of members, patrons, and guests;

(12) Use an age verification system approved by the commissioner; and

(13) Meet and be subject to all other private club requirements.

~~(r)~~ 'Private wedding venue or barn' means an applicant for a private club or licensed private club licensee that is only open for reserved weddings, reunions, conferences, meetings, or other events and does not maintain daily or regular operating hours, and which:

(1) Has at least 25 members;

(2) Maintains a venue, facility, barn, or pavilion primarily used for weddings, reunions, conferences, meetings, or other events where parties ~~must~~ shall reserve or contract for the venue, facility, barn, or pavilion in advance of the event;

(3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and is capable of serving freshly prepared food, or may engage a food caterer to provide adequate freshly prepared food or meals to serve its stated members, guests, and patrons who will be attending the event at the private wedding venue or barn. The applicant or licensee shall provide written documentation including a list of food caterers or written agreements regarding any food catering operations to the commissioner prior to approval of a food catering event;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least two contiguous acres of bounded or fenced real property. The applicant or licensee shall verify that, the property is less than two acres and is remotely located, subject to the commissioner's approval. The bounded or fenced real property may be listed on the private wedding venue's floorplan and may be used for large events such as weddings, reunions, conferences, meetings, or other events;

(5) Lists the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private wedding venue or barn's floorplan that 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 wedding venue or barn's licensed premises and as noted on the private wedding venue or barn's floorplan;

(6) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(7) Meets and is subject to all other private club requirements; and

(8) Uses an age verification system approved by the commissioner.

~~(s)~~ 'Private multi-sport complex' means an applicant for a private club or licensed private club licensee that is open for multiple sports events to be played at the complex facilities, reserved weddings, concerts, reunions, conferences, meetings, or other special events, and which:

(1) Has at least 100 members;

(2) Maintains an open air multi-sport complex primarily for use for sporting events, such as baseball, soccer, basketball, tennis, frisbee, or other sports, but may also conduct weddings, concerts, reunions, conferences, meetings, or other events where parties ~~must~~ shall reserve the parts of the sports complex in advance of the sporting or other event;

(3) Operates a restaurant and full kitchen with ovens in the licensee's main facility, as determined by the commissioner, on the licensed premises and capable of serving freshly prepared food, or meals to serve its stated members, guests, and patrons who will be attending the event at the private ~~professional sports stadium~~ multi-sport complex. A licensee may contract with temporary food vendors or food trucks for food sales only, but not on a permanent basis, in areas of the multi-sport complex not readily accessible by the main facility;

(4) Maintains, at any one time, $1,000 of fresh food inventory capable of being prepared in the private multi-sport complex's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips, or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(5) Owns or leases, controls, operates, and uses acreage amounting to at least 50 contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be

listed on the private multi-sport complex's floorplan and could be used for contracted for sporting events, group-type weddings, concerts, reunions, conferences, meetings, or other events;

(6) Lists the entire property from subdivision (5) of this subsection and all adjoining buildings and structures on the private multi-sport complex'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 multi-sport complex's licensed premises and as noted on the private multi-sport complex's floorplan. The licensee may sell alcoholic liquors from a golf cart or food truck owned or leased by the licensee and also operated by the licensee when the golf cart or food truck is located on the private multi-sport complex's licensed premises;

(7) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(8) Meets and is subject to all other private club requirements; and

(9) Uses 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 park or airport to any corporation or unincorporated association for the establishment of a private club pursuant to this article.

§60-7-2a. Dual licensing permitted; conditions.

(a) Any licensee defined in §60-7-2 of this code is authorized to apply for and hold additional licenses for the purpose of holding events, such as fairs and festivals, and creating tourism opportunities that will show case businesses in this state.

(b) A licensee may host an event on the licensee's licensed premises if the licensee is in good standing with the Commissioner and the licensee submits to the Commissioner its floorplan of the licensed venue in which the event would be held to comprise the event's lawful premises, which shall only include spaces in buildings or rooms of the licensed premises where the licensee has control of the space for the set time period where the space safely accounts for the ingress and egress of the stated members and guests who will be attending the event at the licensed premises. The venue's floorplan during the set time period as stated in the contract shall comprise the licensed premises for the event, which is authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer, and wine throughout the licensed premises; *Provided*, That the venue shall: (i) Have facilities to prepare and serve food and alcohol, (ii) have adequate restrooms, and sufficient building facilities for the number of members and guests expected to attend the event, and (iii) otherwise be in compliance with health, fire, safety, and zoning requirements.

(c) A licensee defined in §60-7-2 of this code may not be limited or restricted in any way as to the number of events that may be held on the premises so long as the licensee continues to operate its primary business in good standing with the Commissioner.

§60-7-6. Annual license fee; partial fee; and reactivation 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 is $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 is $1,000 if the private club bar or restaurant has fewer than 1,000 members; $1,000 for a private club restaurant, private hotel, private resort hotel, or other appropriate licensed entity to be licensed as a private caterer as defined in §60-7-2 of this code; $1,000 if the private club is licensed as a private food truck; $100 if the private club is a private bakery; $1,500 if the private club is a private wedding

venue or barn or a private cigar shop; $2,000 if the private club is a private nine-hole golf course, private farmers market, private college sports stadium, private professional sports stadium, private multi-sport complex, private manufacturer club, or a private tennis club as defined in §60-7-2 of this code; $2,500 if the private club bar or private club restaurant has 1,000 or more members; $4,000 if the private club is a private hotel with three or fewer designated areas or a private golf club as defined in §60-7-2 of this code; and further, if the private club is a private resort hotel as defined in §60-7-2 of this code, the 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 is $7,500 and the annual license fee for a private resort hotel with at least six, but no more than 10 designated areas is $12,500. The annual license fee for a private resort hotel with at least 11, but no more than 15 designated areas shall be $17,500. The annual license fee for a private resort hotel with no fewer than 15 nor more than 20 designated areas is $22,500. A private resort hotel that 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 license issued following January 1 of any year that expires on June 30 of that year is one half of the annual license fee prescribed by subsections (a) and (b) of this section.

(d) A licensee that fails to complete a renewal application and make payment of its annual license fee in renewing its license on or before June 30 of any subsequent year, after initial application, shall be charged an additional $150 reactivation fee. The fee payment may not be prorated or refunded, and the reactivation fee shall be paid prior to the processing of any renewal application and payment of the applicable full year annual license fee. A licensee who continues to operate upon the expiration of its license is subject to all fines, penalties, and sanctions available in §60-7-13 and §60-7-13a of this code, all as determined by the commissioner.

(e) The commissioner shall pay the fees to the State Treasurer and credited to the General Revenue Fund of the state.

(f) The Legislature finds that the hospitality industry has been particularly damaged by the COVID-19 pandemic and that some assistance is warranted to promote reopening and continued operation of private clubs and restaurants licensed under this article. Accordingly, the fees set forth in subsections (a) and (b) of this section are temporarily modified as follows;

(1) License fees for the license period beginning July 1, 2021, shall be reduced to one-third of the rate set forth in subsections (a) and (b) of this section;

(2) License fees for the license period beginning July 1, 2022, shall be reduced to one-third ~~two-thirds~~ of the rate set forth in subsections (a) and (b) of this section; ~~and~~

(3) License fees for the license period beginning July 1, 2023, shall be reduced to two-thirds of the rate set forth in subsections (a) and (b) of this section; and,

(~~3~~4) License fees for the license period beginning July 1, 202~~3~~4, and beyond, shall be as set forth in subsections (a) and (b) of this section.

§60-7-8a. Special license for a private fair and festival; licensee fee and application; license fee; license subject to provisions of article; exception.

(a) There is hereby created a special license designated Class S2 private fair and festival license for the retail sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer for on-premises consumption.

(b) To be eligible for the license authorized by subsection (a) of this section, the private fair and festival or other event shall:

(1) Be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private fair and festival or other event is located;

(2) Shall make application with the commission at least 15 days pursuant to the private fair, festival, or other event;

(3) Pay a nonrefundable nonprorated license fee of ~~$750~~ $500; and

(4) Be approved by the commissioner to operate the private fair, festival, or other event. (c) A private fair and festival license under this section shall be for a duration of no more than 10 consecutive days ~~and no more than six licenses may be issued to the same person or entity in a calendar year~~.

(d) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section must be purchased from the licensed distributor that services the area in which the private fair and festival is held or from a resident brewer acting in a limited capacity as a distributor, all in accordance with §11-16-1 *et seq.* of this code. Sales of sealed containers of nonintoxicating beer or nonintoxicating craft beer may be sold for off-premises consumption if the nonintoxicating beer and nonintoxicating craft beer are purchased from the licensed distributor that services the area in which the private fair, festival, or other event is being held and such licensed distributor agrees to offer such sales prior to the start of the private fair, festival, or other event.

(e) Wine sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed distributor, winery, or farm winery in accordance with §60-8-1 *et seq.* of this code. Sales of sealed containers of wine may be sold for off-premises consumption if the wine is purchased from a licensed distributor, winery, or farm winery and the licensed distributor, winery, or farm winery agrees to offer sales prior to the start of the private fair, festival, or other event.

(f) Liquor sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone where the private fair or festival is occurring, all in accordance with §60-3A-1 *et seq.* of this code. Sales of sealed containers of liquor

may be sold for off-premises consumption if the liquor is purchased from the licensed retail liquor outlet in the market zone or contiguous market zone where the private fair, festival, or other event is occurring and the licensed retail liquor outlet agrees to offer such sales prior to the start of the private fair, festival, or other event.

(g) A licensee authorized by this section may utilize bona fide employees or volunteers to sell, furnish, tender, or serve the nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

(h) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, and liquor broker representatives may attend a private fair and festival and discuss their respective products but shall not engage in the selling, furnishing, tendering, or serving of any nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

(i) A license issued under this section and the licensee are subject to all other provisions of this article and the rules and orders of the commissioner: *Provided*, That the commissioner may by rule or order allow certain waivers or exceptions with respect to those provisions, rules, or orders as the circumstances of each private fair and festival require, including without limitation, the right to revoke or suspend immediately any license issued under this section prior to any notice or hearing, notwithstanding §60-7-13a of this code: *Provided, however*, That under no circumstances may the provisions of §60-7-12 of this code be waived or an exception granted with respect thereto.

§60-7-8f. Private delivery license for a licensed private club restaurant, private manufacturer club, or a third party; requirements; limitations; third party license fee; private cocktail delivery permit; and requirements.

(a) A licensed private club restaurant or private manufacturer club licensed to sell liquor for on-premises consumption may apply for a private delivery license permitting the order, sale, and delivery of liquor and a nonalcoholic mixer or beverage in a sealed

craft cocktail growler, when separately licensed for craft cocktail growler sales. The order, sale, and delivery of a sealed craft cocktail growler is permitted for off-premises consumption when completed by the licensee to a person purchasing the craft cocktail growler through a telephone, a mobile ordering application, or web-based software program, authorized by the licensee's license. There is no additional fee for a licensed private club restaurant or private manufacturer club to obtain a private delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for liquor sales or distribution, may apply for a private delivery license for the privilege of ordering and delivery of craft cocktail growlers, from a licensee with a craft cocktail growler license. The order and delivery of a sealed craft cocktail growler is permitted by a third party who obtains a license under this section when a private club restaurant or private manufacturer club sells to a person purchasing the sealed craft cocktail growler through telephone orders, a mobile ordering application, or a web-based software program. The private delivery license nonprorated, nonrefundable annual fee is $200 for each third party entity, with no limit on the number of drivers and vehicles.

(c) The private delivery license application shall comply with licensure requirements in this article and shall require any information required by the commissioner; *Provided*, That the license application may not require a third party applicant to furnish information pursuant to §60-7-12 of this code.

(d) *Sale Requirements*. —

(1) The craft cocktail growler purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of the prepared food or a meal, and craft cocktail growler by the licensed private club restaurant, private manufacturer club, or third party private delivery licensee;

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this chapter for the sale of alcoholic liquors and as set forth in §11-16-1 *et seq.* of the code for nonintoxicating beer or nonintoxicating craft beer.

(3) 'Prepared food or a meal' for this article, means food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of multiple sealed craft cocktail growlers for each order of food or meal; *Provided*, That the entire delivery order may not contain any combination of craft cocktail growlers of more than 128 fluid ounces total; and

(5) A third party private delivery licensee shall not have a pecuniary interest in a private club restaurant or private manufacturer club licensee, as set forth in this article. A third party private delivery licensee may only charge a convenience fee for the delivery of any alcohol. The third party private delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol, but may continue to collect a percentage of the delivery order directly related to the prepared food or a meal. ~~The convenience fee charged by the third-party private delivery licensee to the purchasing person shall be no greater than five dollars per delivery order where a craft cocktail growler is ordered by the purchasing person. For any third party licensee also licensed for wine growler delivery as set forth in §60-8-6c of the code, or nonintoxicating beer or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed five dollars.~~

(e) *Craft Cocktail Growler Delivery Requirements*. —

(1) Delivery persons employed for the delivery of a sealed craft cocktail growler shall be 21 years of age or older. The licensed private club restaurant, private manufacturer club, or third party

private delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. The licensee shall submit certification of the training to the commissioner;

(3) The third party delivery licensee or the private club restaurant or private manufacturing club shall hold a private cocktail delivery permit for each vehicle delivering a craft cocktail growler pursuant to subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure.

(4) Prepared food or a meal, and a sealed craft cocktail growler order delivered by a third party private delivery licensee, a private club restaurant, or private manufacturer club may occur in the county or contiguous counties where the licensed private club restaurant or private manufacturer club is located;

(5) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee may only deliver prepared food or a meal, and a sealed craft cocktail growler to addresses located in West Virginia. The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall account for and pay all sales and municipal taxes;

(6) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee may not deliver prepared food or a meal, and a sealed craft cocktail growler to any other licensee;

(7) Deliveries of prepared food or a meal, and a sealed craft cocktail growler are only for personal use, and not for resale; and

(8) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall not deliver and leave the prepared food or a meal, and a sealed craft cocktail

growler at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person may only permit the person who placed the order through a telephone order, a mobile ordering application, or web-based software to accept the prepared food or meal and a craft cocktail growler delivery, subject to age verification upon delivery with the delivery person's visual review and age verification ~~and, as application, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used ~~shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and~~ shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for verification, ~~and~~ shall include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall retain records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) The third party private delivery licensee or the private club restaurant or private manufacturing club shall hold a valid private cocktail delivery permit under subsection (g) of this section for each vehicle used for delivery: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure.

(g) *Private Cocktail Delivery Permit.* —

(1) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and a sealed craft cocktail growler, subject to the requirements of this article.

(2) A third party private delivery licensee, a private club restaurant, or private manufacturer club licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private cocktail delivery permit shall meet the requirements of a transportation permit authorizing the permit holder to transport liquor subject to the requirements of this chapter.

(h) *Enforcement.* —

(1) The third party private delivery licensee, the private club restaurant, or the private manufacturers club licensed by this section are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a craft cocktail growler. The licensees in violation are subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

§60-7-17. Repealer.

[Repealed.]

ARTICLE 8. SALE OF WINES.

§60-8-6c. Winery and Farm Winery license to sell wine growlers and provide complimentary samples prior to purchasing a wine growler.

(a) *Legislative findings*. — The Legislature hereby finds that it is in the public interest to regulate, control, and support the brewing, manufacturing, distribution, sale, consumption, transportation, and storage of wine and its industry in this state to protect the public health, welfare, and safety of the citizens of this state, and promote hospitality and tourism. Therefore, this section authorizes a licensed winery or farm winery with its principal place of business and manufacture located in this state to have certain abilities to promote the sale of wine manufactured in this state for the benefit of the citizens of this state, the state's growing wine industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) *Sales of wine*. — A licensed winery or farm winery with its principal place of business and manufacture located in the State of West Virginia may, when licensed under this section, offer only wine manufactured by the licensed winery or farm winery for retail sale to customers from the winery or farm winery's licensed premises for consumption off of the licensed premises only in the form of original container sealed wine kegs, wine bottles, or wine cans, or also a sealed wine growler for personal consumption, and not for resale. A licensed winery or farm winery may not sell, give, or furnish wine for consumption on the premises of the principal place of business and manufacture located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (c) of this section or unless separately licensed as a private wine restaurant or a private manufacturer club.

(c) *Complimentary samples*. — A licensed winery or farm winery with its principal place of business and manufacture located

in the State of West Virginia may offer complimentary samples of wine as set forth in §60-4-3b of this code.

(d) *Retail sales*. — Every licensed winery or farm winery under this section shall comply with all the provisions of this article as applicable to wine retailers when conducting wine growler sales and is subject to all applicable requirements and penalties in this article.

(e) *Payment of taxes and fees*. — A winery or farm winery licensed under this section shall pay all taxes and fees required of licensed wine retailers, in addition to any other taxes and fees required, and shall meet applicable licensing provisions as required by this chapter and by rule of the commissioner.

(f) *Advertising*. — A winery or farm winery under this section may advertise a particular brand or brands of wine produced by the licensed winery or farm winery and the price of the wine subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance or target minors.

(g) *Wine Growler defined*. – For purposes of this section and section §60-8-6d of the code, 'wine growler' means a container or jug that is made of glass, ceramic, metal, or other material approved by the commissioner, that may be no larger than 128 fluid ounces in size and is capable of being securely sealed. The growler may be used by an authorized licensee for purposes of off-premises sales only of wine for personal consumption, and not for resale. <u>The wine served and sold in a sealed wine growler may include ice or water mixed with the wine to create a frozen alcoholic beverage. Any frozen alcoholic beverage machine used for filling wine growlers shall be sanitized daily and shall be under control and served by the licensee from the secure area.</u> Notwithstanding any other provision of this code to the contrary, a securely sealed wine growler is not an open container under state and local law. A wine growler with a broken seal is an open container under state and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. For purpose of this article, a secure seal means using a tamper evident seal, such as: (1) A plastic heat shrink wrap band, strip, or sleeve extending

around the cap or lid of wine growler to form a seal that ~~must~~ shall be broken when the container is opened; or (2) A screw top cap or lid that breaks apart when the wine growler is opened.

(h) *Wine Growler requirements*. — A winery or farm winery licensed under this section shall prevent patrons from accessing the secure area where the winery or farm winery fills a wine growler and prevent patrons from filling a wine growler. A licensed winery or farm winery under this section shall sanitize, fill, securely seal, and label any wine growler prior to its sale. A licensed winery or farm winery under this section may refill a wine growler subject to the requirements of this section. A winery or farm winery shall visually inspect any wine growler before filling or refilling it. A winery or farm winery may not fill or refill any wine growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container.

(i) *Wine Growler labeling*. — A winery or farm winery licensed under this section selling wine growlers shall affix a conspicuous label on all sold and securely sealed wine growlers listing the name of the licensee selling the wine growler, the brand of the wine in the wine growler, the alcohol content by volume of the wine in the wine growler, and the date the wine growler was filled or refilled. All labeling on the wine growler shall be consistent with all federal labeling and warning requirements.

(j) *Wine Growler sanitation*. — A licensed winery or farm winery authorized under this section shall clean and sanitize all wine growlers it fills or refills in accordance with all state and county health requirements prior to its filling and sealing. In addition, the licensed winery or farm winery shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipelines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure to comply with this subsection may result in penalties under this article.

(k) *Fee*. — There is no additional fee for a licensed winery or farm winery authorized under this section to sell wine growlers, but the licensee shall meet all other requirements of this section.

(l) *Limitations on licensees*. — To be authorized under this section, a licensed winery or farm winery may not produce more than 10,000 gallons of wine per calendar year at the winery or farm winery's principal place of business and manufacture located in the State of West Virginia. A licensed winery or farm winery authorized under this section is subject to the applicable penalties under this article for violations of this section.

(m) *Rules*. — The commissioner, in consultation with the Bureau for Public Health, may propose legislative rules concerning sanitation for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

§60-8-6e. Private wine delivery license for a licensed Class A wine licensee or a third party; requirements; limitations; third party license fee; private retail transportation permit; and requirements.

(a) A Class A wine licensee who is licensed to sell wine for on-premises consumption may apply for a private wine delivery license permitting the order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for wine growler sales. The order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the wine through a telephone, mobile ordering application, or web-based software program, authorized by the licensee's license. There is no additional fee for a Class A wine licensee to obtain a private wine delivery license. The order, sale, and delivery process must meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for wine sales or distribution, may apply for a private wine delivery license for the privilege of ordering and delivery of wine in the original container of sealed bottles, or cans, or sealed wine growlers, from a licensee with a wine growler license. The order and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is

permitted by a third party licensee when sold by a Class A wine licensee to a person purchasing the wine through telephone orders, mobile ordering application, or web-based software program for off-premises consumption. The private wine delivery license non-prorated, nonrefundable annual fee is $200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private wine delivery license application shall comply with licensure requirements in this article and shall contain any information required by the commissioner.

(d) *Sale Requirements*. —

(1) The wine purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of prepared food or a meal, and sealed wine by the licensee or third-party licensee.

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of wine.

(3) 'Prepared food or a meal' for this article, means food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of no more than 384 fluid ounces of wine per delivery order; and

(5) A third-party private wine delivery licensee may not have a pecuniary interest in a Class A wine licensee, as set forth in this article. A third-party private wine delivery licensee may only charge a convenience fee for the delivery of wine as provided in this section. The third-party private wine delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol but may collect a percentage of the delivery order directly related to prepared food or a meal. ~~The convenience fee charged by the third-party private wine delivery licensee to the purchasing person~~

~~may be no greater than five dollars per delivery order where wine is ordered by the purchasing person. For any third party private wine delivery licensee also licensed for nonintoxicating beer or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code or craft cocktail growler delivery as set forth in §60-7-8f of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed five dollars.~~

(e) *Private Wine Delivery Requirements*. —

(1) Delivery persons employed for the delivery of sealed wine shall be 21 years of age or older. The third-party private wine delivery licensee or a Class A wine licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The third-party private wine delivery licensee or the Class A wine licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. The third-party private wine delivery licensee shall submit certification of the training to the commissioner;

(3) The third party private wine delivery licensee or Class A wine licensee shall hold a retail transportation permit for each vehicle delivering sealed wine per subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) Delivery of food or a meal, and sealed wine orders by a third-party private wine delivery licensee or Class A wine licensee may occur in the county or contiguous counties where the wine licensee is located;

(5) The third-party private wine delivery licensee or Class A wine licensee may only deliver prepared food or a meal and sealed wine to addresses located in West Virginia. The third-party private wine delivery licensee or Class A wine licensee shall account for and pay all sales and municipal taxes;

(6) The third-party private wine delivery licensee or Class A wine licensee may not deliver prepared food or a meal, and sealed wine to any other wine licensees;

(7) Deliveries of food or a meal, and sealed wine are only for personal use, and not for resale; and

(8) The third-party private wine delivery licensee or Class A wine licensee shall not deliver and leave deliveries of prepared food or a meal, and sealed wine any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person shall only permit the person who placed the order through a telephone order, a mobile ordering application, or web-based software to accept the prepared food or meal, and wine delivery which is subject to age verification upon delivery with the delivery person's visual review and verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used ~~shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and~~ shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for verification, ~~and~~ shall include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner, and the third-party private wine delivery licensee and Class A wine licensee shall retain the records for inspection for three years. The third-party private wine delivery licensee or Class A wine licensee

may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering wine shall be issued a private wine retail transportation permit per subsection (g) of this section.

(g) *Private Wine Retail Transportation Permit*. —

(1) A Class A wine licensee or a third-party private wine delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and sealed wine.

(2) A Class A wine licensee or a third-party private wine delivery licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private wine retail transportation permit shall meet the requirements of a transportation permit authorizing the permit holder to transport wine subject to the requirements of this chapter.

(h) *Enforcement.* —

(1) The licensee or the third-party private wine delivery licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a wine bottle, wine can, or wine growler. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

§60-8-6f. Private wine delivery license for a licensed Class B wine licensee or a third party; requirements; limitations; third party license fee; private retail transportation permit; and requirements.

(a) A Class B wine licensee who is licensed to sell wine for on-premises consumption may apply for a private wine delivery license permitting the order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for wine growler sales. The order, sale, and delivery of wine in the original container of sealed bottles, cans, or sealed wine growlers is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the wine through a telephone order, a mobile ordering application, or web-based software program, as authorized by the licensee's license. There is no additional fee for a Class B wine licensee to obtain a private wine delivery license. The order, sale, and delivery process shall meet the requirements of this section, and subject to the penalties of this article.

(b) A third party, not licensed for wine sales or distribution, may apply for a private wine delivery license for the privilege of the ordering and delivery of wine in the original container of sealed bottles, or cans, or sealed wine growlers, from a licensee with a wine growler license. The order and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted for off-premises consumption by a third party licensee when sold by a Class B wine licensee to a person purchasing the wine through telephone orders, mobile ordering application, or web-based software program. The private wine delivery license non-prorated, nonrefundable annual fee is $200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private wine delivery license application shall comply with licensure requirements in this article and shall contain any information required by the commissioner.

(d) *Sale Requirements*. —

(1) The wine purchase may accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and sealed wine by the licensee or third-party private wine delivery licensee.

(2) Any purchasing person must be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of wine.

(3) Food, for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of food and any combination of sealed wine bottles, cans, or growlers shall not be in excess of 384 fluid ounces of wine; and

(5) A third-party private wine delivery licensee shall not have a pecuniary interest in a Class B wine licensee, as set forth in this article. A third-party private wine delivery licensee may only charge a convenience fee for the delivery of wine. The third-party private wine delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol but may collect a percentage of the delivery order directly related to food only. ~~The convenience fee charged by the third-party private wine delivery licensee to the purchasing person shall be no greater than five dollars per delivery order where wine is ordered by the purchasing person. For any third-party licensee also licensed for nonintoxicating beer or nonintoxicating craft beer delivery as set forth in §11-16-6f of the code, the total convenience fee of any order, sale, and delivery shall not exceed five dollars.~~

(e) *Private Wine Delivery Requirements*. —

(1) Delivery persons employed for the delivery of sealed wine shall be 21 years of age or older. The third-party private wine delivery licensee or a Class B wine licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The third-party private wine delivery licensee or Class B wine licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and certification. The third-party private wine delivery licensee or Class B wine licensee shall submit certification of the training to the commissioner;

(3) The third party delivery licensee or Class B wine licensee must hold a retail transportation permit for each vehicle delivering sealed wine as required by subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) The third-party private wine delivery licensee or Class B wine licensee may only deliver food and sealed wine orders by a third-party private wine delivery licensee or Class B wine licensee in the county where the wine licensee is located;

(5) The third-party private wine delivery licensee or Class B wine licensee may only deliver food and sealed wine to addresses located in West Virginia with all sales and municipal taxes accounted for and paid;

(6) A third-party private wine delivery licensee or Class B wine licensee may not deliver food and sealed wine to any other wine licensees;

(7) Deliveries of food and sealed wine are only for personal use, and not for resale; and

(8) A third-party private wine delivery licensee or Class B wine licensee shall not deliver and leave food and sealed wine at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person shall only permit the person who placed the order through a telephone, a mobile ordering application, or web-based software to accept the food and wine delivery which is subject to age verification upon delivery with the delivery person's visual review and verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used shall ~~create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall~~ include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for verification, ~~and~~ must include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. The third-party private wine delivery licensee or Class B wine licensee shall retain the records for inspection for three years. The third-party private wine delivery licensee or Class B wine licensee may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering wine shall be issued a private wine retail transportation permit under subsection (g) of this section.

(g) *Private Wine Retail Transportation Permit*. —

(1) A Class B wine licensee or third party private wine delivery licensee shall obtain and maintain a retail transportation permit for the delivery of food and wine.

(2) A Class B wine licensee or third party private wine delivery licensee shall provide vehicle and driver information requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private wine retail transportation permit shall meet the requirements of a transportation permit authorizing the permit holder to transport wine subject to the requirements of this chapter.

(h) *Enforcement*. —

(1) The licensee or third-party private wine delivery licensee are each responsible for any violations committed by their employees or agents under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a wine bottle, wine can, or wine growler. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

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 18 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 caterer, private club restaurant, private manufacturer club, private fair and festival, private resort hotel, private hotel, private golf club, private nine-hole golf course, private tennis club, private wedding venue or barn, private outdoor dining and private outdoor street dining, private multi-vendor fair and festival license, private farmers market, private professional sports stadium, and a private multi-sports complex licensed pursuant to §60-7-1 *et seq.* of this code and in compliance with §60-7-2(f)(~~11~~5), §60-7-2(g)(5), §60-7-2(h)(4~~9~~), ~~§60-7-2(i)(8), §60-7-2(j)(7),~~ §60-7-2(k)(~~8~~4), §60-7-2(l)(8), §60-7-2(m)(7), §60-7-2(n)(~~7~~8), §60-7-2(o)(8), §60-7-2(p)(~~8~~7), §60-7-2(q)(~~12~~8), §60-7-2(r)(8), §60-7-2(s)(~~9~~7), §60-7-2(t)(8), §60-7-2(u)(12), §60-7-12(v)(8), §60-7-2(w)(9), §60-7-8c(b)(14), §60-7-8d, and §60-8-32a, of this code; or (b) a private club with more than 1,000 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, by using a mandatory carding or identification program by which all members or guests being served or sold alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer are asked and required to provide their proper identification to verify their identity and further that they are of legal drinking age, 21 years of age or older, prior to each sale or service of alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer."

[DELEGATE HOWELL, MR. SPEAKER PRO TEMPORE, IN THE CHAIR]

Delegate Young moved to amend the amendment on page 61, section 8a, line 51, following the period by inserting a new subsection to read as follows:

"(j) During events authorized by this section, licensees may also sell promotional and other items relating to promoting their business and its products."

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

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

On the question of the adoption of the amendment by Delegate Young, the same was put and prevailed.

Delegate Steele obtained unanimous consent to reform his amendment on page 1, by striking everything after the enacting clause and inserting in lieu thereof, the following:

"**CHAPTER 11. TAXATION.**

ARTICLE 16. NONINTOXICATING BEER.

§11-16-6d. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed Class A retail dealer or a third party; requirements; limitations; third party license fee; retail transportation permit; and requirements.

(a) A Class A retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed growlers, when separately licensed for growler sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or

nonintoxicating craft beer by telephone, a mobile ordering application, or a web-based software program, as authorized by the licensee's license. There is no additional fee for licensed Class A retail dealers to obtain a nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class A retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer through telephone orders, a mobile ordering application, or a web-based software program. The annual nonintoxicating beer or nonintoxicating craft beer delivery license fee is $200 per third party entity, with no limit on the number of drivers and vehicles. The delivery license fee under this subsection may not be prorated nor refunded.

(c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall comply with licensure requirements in §11-16-8 of this code, and shall require any information set forth in this article and as reasonably required by the commissioner.

(d) *Sale Requirements.* —

(1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of the prepared food or meal and nonintoxicating beer or nonintoxicating craft beer by the Class A retail dealer or third party licensee;

(2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating craft beer;

(3) 'Prepared food or a meal' shall, for purposes of this article, mean food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of multiple meals shall not amount to any combination of bottles, cans, or sealed growlers in excess of 384 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and

(5) A third party delivery licensee may not have a pecuniary interest in a Class A retail dealer, as set forth in this article, therefore a third party delivery licensee may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third party licensee may not collect a percentage of the delivery order for the delivery of alcohol, but may continue to collect a percentage of the delivery order directly related to the prepared food or a meal. ~~The convenience fee charged by the third party delivery licensee to the person purchasing may not be greater than five dollars per delivery order where nonintoxicating beer or nonintoxicating craft beer are ordered by the purchasing person. For any third party licensee also licensed for wine growler delivery as set forth in §60-8-6c of the code, or craft cocktail growler delivery as set forth in §60-7-8f of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed five dollars.~~

(e) *Delivery Requirements*. —

(1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older. The licensed Class A retail dealer and the third

party delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A Class A retail dealer or third party delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and shall submit certification of the training to the commissioner;

(3) The Class A retail dealer or third party delivery licensee shall hold a retail transportation permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft beer pursuant to §11-16-6d(g) of this code: *Provided*, That a delivery driver may retain an electronic copy of his or her permit;

(4) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer orders in the county or contiguous counties where the Class A retail dealer is located;

(5) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia. A Class A retail dealer or third party delivery licensee shall pay and account for all sales and municipal taxes;

(6) A Class A retail dealer or third party delivery licensee may not deliver prepared food or a meal, and nonintoxicating beer or nonintoxicating craft beer to any other Class A licensee;

(7) A Class A retail dealer or third party delivery licensee may only deliver prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer for personal use, and not for resale; and

(8) A Class A retail dealer or third party delivery licensee shall not deliver and leave prepared food or a meal, and sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the prepared food or a meal, and nonintoxicating beer or nonintoxicating craft beer delivery which is subject to age verification upon delivery with the delivery person's visual review and age verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used ~~shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and~~ shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery person for verification, ~~and~~ shall include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. A Class A retail dealer or third party delivery licensee shall retain all records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer must be issued a retail transportation permit per §11-16-6d(g) of this code.

(g) *Retail Transportation Permit.* —

(1) A Class A retail dealer or third party delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and nonintoxicating beer or nonintoxicating craft beer.

(2) A Class A retail dealer or a third party licensee shall apply for a permit and provide vehicle and driver information, as required by the commissioner. Upon any change in vehicles or drivers, the Class A retail dealer or third party delivery licensee shall update the vehicle and driver information with the commissioner within 10 days of the change.

(h) *Enforcement*. —

(1) A Class A retail dealer or third party delivery licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple Class A retail dealers or licensees, employees, or independent contractors.

(2) A license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the Class A retail dealer or third party delivery licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a growler subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, or accepting delivery of orders are considered to be purchasers.

§11-16-6f. Nonintoxicating beer or nonintoxicating craft beer delivery license for a licensed Class B retail dealer or a third party; requirements; limitations; third party license fee; retail transportation permit; and requirements.

(a) A Class B retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license permitting the order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer in a sealed original container of bottles or cans, and sealed growlers, when separately licensed for growler

sales. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the nonintoxicating beer or nonintoxicating craft beer by a telephone, a mobile ordering application, or web-based software program, as authorized by the licensee's license. There is no additional fee for licensed Class B retail dealers to obtain a nonintoxicating beer or nonintoxicating craft beer delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for nonintoxicating beer or nonintoxicating craft beer sales or distribution, may apply for a nonintoxicating beer or nonintoxicating craft beer delivery license for the privilege and convenience to offer ordering and delivery services of nonintoxicating beer or nonintoxicating craft beer in the sealed original container of bottles or cans, and sealed growlers, from a licensee with a growler license. The order, sale, and delivery of nonintoxicating beer or nonintoxicating craft beer is permitted for off-premises consumption when the Class B retail dealer sells to a person purchasing the nonintoxicating beer or nonintoxicating craft beer through a telephone order, a mobile ordering application, or web-based software program. The nonintoxicating beer or nonintoxicating craft beer delivery annual license fee is $200 per third party licensee, with no limit on the number of drivers and vehicles. The delivery license fee under this subsection may not be prorated nor refunded.

(c) The nonintoxicating beer or nonintoxicating craft beer delivery license application shall comply with licensure requirements in §11-16-8 of this code and shall require any information set forth in this article and as reasonably required by the commissioner.

(d) *Sale Requirements.* —

(1) The nonintoxicating beer or nonintoxicating craft beer purchase shall accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and

nonintoxicating beer or nonintoxicating craft beer by the licensee or third party licensee;

(2) Any person purchasing nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and meet the requirements set forth in this article for the sale of nonintoxicating beer or nonintoxicating craft beer;

(3) Food, for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of food and any combination of sealed nonintoxicating beer or nonintoxicating craft beer bottles, cans, or growlers shall not be in excess of 384 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; and

(5) A third party delivery licensee shall not have a pecuniary interest in a Class B retail dealer, as set forth in this article. A third party delivery licensee may only charge a convenience fee for the delivery of any nonintoxicating beer or nonintoxicating craft beer. The third party licensee may not collect a percentage of the delivery order for the delivery of nonintoxicating beer or nonintoxicating craft beer, but may continue to collect a percentage of the delivery order directly related to food. ~~The convenience fee charged by the third party delivery licensee to the purchasing person may not be greater than five dollars per delivery order. For any third party licensee also licensed for wine delivery as set forth in §60-8-6f of this code the total convenience fee for any order, sale, and delivery of sealed wine may not exceed five dollars.~~

(e) *Delivery Requirements.* —

(1) Delivery persons employed for the delivery of nonintoxicating beer or nonintoxicating craft beer shall be 21 years of age or older. A Class B retail dealer and a third party licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A Class B retail dealer and a third party licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and submit the certification of the training to the commissioner;

(3) The Class B retail dealer or third party delivery licensee shall hold a retail transportation permit for each delivery vehicle delivering sealed nonintoxicating beer or nonintoxicating craft beer pursuant to §11-16-6f(g) of this code: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of the licensure;

(4) A Class B retail dealer and a third party licensee may deliver food and sealed nonintoxicating beer or nonintoxicating craft beer orders in the county where the Class B retail dealer is located;

(5) A Class B retail dealer and a third party licensee may only deliver food and sealed nonintoxicating beer or nonintoxicating craft beer to addresses located in West Virginia. A Class B retail dealer and a third party licensee shall pay and account for all sales and municipal taxes;

(6) A Class B retail dealer and a third party licensee may not deliver food and nonintoxicating beer or nonintoxicating craft beer to any other Class B licensee;

(7) Deliveries of food and sealed nonintoxicating beer or nonintoxicating craft beer are only for personal use, and not for resale; and

(8) A Class B retail dealer and a third party licensee shall not deliver and leave food and sealed nonintoxicating beer or nonintoxicating craft beer at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-

based software to accept the food and nonintoxicating beer or nonintoxicating craft beer delivery. The delivery is subject to age verification upon delivery with the delivery person's visual review and age verification ~~and, as applicable, requires a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used ~~must create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery person for verification, and~~ shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery person for verification, ~~and~~ shall include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. A Class B retail dealer and a third party licensee shall retain all records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering nonintoxicating beer or nonintoxicating craft beer shall be issued a retail transportation permit in accordance with §11-16-6f(g) of this code.

(g) *Retail Transportation Permit. —*

(1) A Class B retail dealer and a third party licensee shall obtain and maintain a retail transportation permit for the delivery of food and nonintoxicating beer or nonintoxicating craft beer.

(2) A Class B retail dealer or a third party licensee shall apply for a permit and provide vehicle and driver information, required by the commissioner. Upon any change in vehicles or drivers, Class B retail dealer and a third party licensee shall update the vehicle and driver information with the commissioner within 10 days of the change.

(h) *Enforcement.* —

(1) The Class B retail dealer and a third party licensee are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple Class B retail dealers or third party licensees, employees, or independent contractors.

(2) A license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the Class B retail dealer or third party licensee, their employees, or independent contractors.

(3) It is a violation for any Class B retail dealer or third party licensee, their employees, or independent contractors to break the seal of a growler subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, or accepting delivery of orders are considered to be purchasers.

§11-16-8. Form of application for license; fee and bond; refusal of license.

(a) A license may be issued by the commissioner to any person who submits an application, accompanied by a license fee and, where required, a bond, and states under oath:

(1) The name and residence of the applicant, the duration of ~~such~~ the residency, and that the applicant is 21 years of age. If the applicant is a firm, association, partnership, limited partnership, limited liability company, or corporation, the application shall include the residence of the members or officers. If a person, firm, partnership, limited partnership, limited liability company, association, corporation, or trust applies for a license as a distributor, the person, or in the case of a firm, partnership, limited partnership, limited liability company, association or trust, the members, officers, trustees or other persons in active control of the

activities of the limited liability company, association or trust relating to the license, shall include the residency for these persons on the application. All applicants and licensees ~~must~~ shall include a manager on the applicant's license application, or a licensee's renewal application who ~~must~~ shall meet all other requirements of licensure, including, but not limited to, United States citizenship or naturalization, passing a background investigation, being at least 21 years of age, ~~being a suitable person, being of good morals and character,~~ and other requirements, all as set forth in this article and the rules, promulgated thereunder, all in the interest of protecting public health and safety ~~and being a suitable applicant or licensee~~. In order to maintain licensure, a licensee shall notify the commissioner immediately of a change in managers. If the applicant is a trust or has a trust as an owner, the trustees, or other persons in active control of the activities of the trust relating to the license shall provide a certification of trust as described in §44D-10-1013 of this code. This certification of trust shall include the excerpts described in §44D-10-1013(e), of this code and shall further state, under oath, the names, addresses, Social Security numbers and birth dates of the beneficiaries of the trust and certify that the trustee and beneficiaries are 21 years of age or older. If a beneficiary is not 21 years of age, the certification of trust ~~must~~ shall state that the beneficiary's interest in the trust is represented by a trustee, parent, or legal guardian who is 21 years of age and who will direct all actions on behalf of the beneficiary related to the trust with respect to the distributor until the beneficiary is 21 years of age. Any beneficiary who is not 21 years of age or older shall have his or her trustee, parent, or legal guardian include in the certification of trust and state under oath his or her name, address, Social Security number, and birth date;

(2) The place of birth of applicant, that he or she is a citizen of the United States ~~and of good moral character~~ and, if a naturalized citizen, when and where naturalized. If the applicant is a corporation organized or authorized to do business under the laws of the state, the application ~~must~~ shall state when and where incorporated, the name and address of each officer, and that each officer is a citizen of the United States ~~and a person of good moral character~~. If the applicant is a firm, association, limited liability

company, partnership, limited partnership, trust, or has a trust as an owner, the application shall provide the place of birth of each member of the firm, association, limited liability company, partnership or limited partnership and of the trustees, beneficiaries, or other persons in active control of the activities of the trust relating to the license and that each member or trustee, beneficiary or other persons in active control of the activities of the trust relating to the license is a citizen of the United States, and if a naturalized citizen, when and where naturalized, each of whom ~~must~~ shall qualify and sign the application;

(3) The particular place for which the license is desired and a detailed description thereof;

(4) The name of the owner of the building and, if the owner is not the applicant, that the applicant is the actual and bona fide lessee of the premises;

(5) That the place or building in which is proposed to do business conforms to all applicable laws of health, fire, and zoning regulations and is a safe and proper place or building; not within 300 feet of a school or church measured from front door to front door, along the street or streets. This requirement does not apply to a Class B license or to a place occupied by a beer licensee so long as it is continuously so occupied. The prohibition against locating any such place within 300 feet of a school or church does not apply to any school or church that has notified the commissioner, in writing, that is has no objection to the location of any such place within 300 feet. The prohibition against locating any such place within 300 feet of a school does not apply to a college or university. ~~The prohibition against locating a proposed business in a place or building within 300 feet of a school does not apply to a college or university that has notified the commissioner, in writing, that it has no objection to the location of a proposed business in a place or building within 300 feet of the college or university~~

(6) That the applicant is not incarcerated and has not, in the previous five years before application, (A) been convicted of a felony, (B) been convicted of a crime involving fraud, dishonesty or deceit, and/or (C) been convicted of a felony for violating

alcohol-related distribution laws; ~~during the five years preceding the date of said application been convicted of a felony;~~

(7) That the applicant is the only person in any manner pecuniarily interested in the business so asked to be licensed and that no other person is in any manner pecuniarily interested during the continuance of the license; and

(8) That the applicant has not during five years preceding the date of the application had a nonintoxicating beer license revoked.

(b) In the case of an applicant that is a trust or has a trust as an owner, a distributor license may be issued only upon submission by the trustees or other persons in active control of the activities of the trust relating to the distributor license of a true and correct copy of the written trust instrument to the commissioner for his or her review. Notwithstanding any provision of law to the contrary, the copy of the written trust instrument submitted to the commissioner pursuant to this section is confidential and is not a public record and is not available for release pursuant to the West Virginia Freedom of Information Act codified in §29B-1-1 *et seq.* of this code.

(c) The provisions and requirements of subsection (a) of this section are mandatory prerequisites for the issuance and, if any applicant fails to qualify, the license shall be refused. In addition to the information furnished in any application, the commissioner may make such additional and independent investigation of each applicant, manager, and of the place to be occupied as necessary or advisable and, for this reason, all applications, with license fee and bond, ~~must~~ shall be submitted with all true and correct information. For the purpose of conducting ~~such~~ the independent investigation, the commissioner may withhold the granting or refusal to grant the license for a 30-day period or until the applicant has completed the conditions set forth in this section. If it appears that the applicant and manager meet the requirements in the code and the rules, including, but not limited to, has not been convicted of a felony in the previous five years before application, has not been convicted of a crime involving fraud, dishonesty or deceit in the previous five years before application, has not been convicted of a felony for

violating any alcohol-related distribution laws; ~~being a suitable person of good reputation and morals;~~ having made no false statements or material misrepresentations; involving no hidden ownership; and having no persons with an undisclosed pecuniary interest contained in the application; and if there are no other omissions or failures by the applicant to complete the application, as determined by the commissioner, the commissioner shall issue a license authorizing the applicant to sell nonintoxicating beer or nonintoxicating craft beer.

(d) The commissioner may refuse a license to any applicant under the provisions of this article if the commissioner determines ~~is of the opinion~~:

(1) That the applicant or manager has, within the previous five years before application, (A) been convicted of a felony within the previous five years, (B) been convicted of a crime involving fraud, dishonesty, or deceit, or (C) been convicted of a felony for violating any alcohol-related distribution laws; ~~is not a suitable person to be licensed;~~

(2) That the place to be occupied by the applicant is not a suitable place; or is within 300 feet of any school or church measured from front door to front door along the street or streets. This requirement does not apply to a Class B licensee or to a place now occupied by a beer licensee. The prohibition against locating any such place within 300 feet of a school or church does not apply to any school or church that has notified the commissioner, in writing, that is has no objection to the location of any such place within 300 feet. The prohibition against locating any such place within 300 feet of a school does not apply to a college or university; ~~so long as it is continuously so occupied. The prohibition against locating any such place within 300 feet of a school does not apply to a college or university that has notified the commissioner, in writing, that it has no objection to the location of any such place within 300 feet.~~

(3) That the manager, owner, employee, or person is in a contractual relationship to provide goods or services to the applicant is an active employee of the commissioner; or

(4) That the license should not be issued for reason of conduct declared to be unlawful by this article.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 1. GENERAL PROVISIONS.

§60-1-3a. Off-premises sales not required to be bagged.

Subject to the provisions of this chapter, alcoholic liquors, in this state are not required to be placed in bag by a licensee who is licensed for off-premises sales of alcoholic liquors.

ARTICLE 3. SALES BY COMMISSIONER.

§60-3-22. Sales to certain persons prohibited.

(a) Alcoholic liquors and nonintoxicating beer as defined in §11-16-3 of this code shall not be sold to a person who is:

(1) Less than 21 years of age;

~~(2) An habitual drunkard;~~

(~~3~~2) Intoxicated; or

~~(4) Addicted to the use of any controlled substance as defined by any of the provisions of chapter sixty-a of this code; or~~

(~~5~~3) Mentally incompetent.

(b) It shall be a defense to a violation of subdivision (1), subsection (a) of this section if the seller shows that the purchaser:

(1) Produced written evidence which showed his or her age to be at least the required age for purchase and which bore a physical description of the person named on the writing which reasonably described the purchaser; or

(2) Produced evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age.

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.

§60-3A-3a. Liquor sampling.

(a) Notwithstanding any provision of this code to the contrary, a Class A retail licensee may~~, with the written approval of the commissioner,~~ conduct a liquor sampling event on a designated sampling day.

(b) At least five business days prior to the liquor sampling, the Class A retail licensee shall submit a written proposal to the commissioner ~~requesting to~~ informing the Commissioner that the Class A licensee will hold a liquor sampling event, including:

(1) The day of the event;

(2) The location of the event;

(3) The times for the event; and

(4) The specific brand and flavor of the West Virginia product to be sampled.

(c) Upon approval by the commissioner, a Class A retail licensee may serve a complimentary liquor sample of the approved brand and flavor of the West Virginia product that is purchased by the Class A retail licensee from the commissioner.

(d) The complimentary liquor samples on any sampling day shall not exceed:

(1) One separate and individual sample serving per customer verified to be 21 years of age or older; and

(2) One ounce in total volume.

(e) Servers at the liquor sampling event shall:

(1) Be employees of the Class A retail licensee; and

(2) Be at least 21 years of age or older.~~; and~~

~~(3) Have specific knowledge of the West Virginia product being sampled to convey to the customer.~~

(f) All servers at the liquor sampling event shall verify the age of the customer sampling liquor by requiring and reviewing proper forms of identification. Servers at the liquor sampling event may not serve any person who is:

(1) Under the age of 21 years;

(2) Intoxicated.

(g) A liquor sampling event shall:

(1) Occur only inside the Class A retail licensee's licensed premises; and

(2) Cease on or before 9:00 p.m. on any approved sampling day.

(h) Any liquor bottle used for sampling must be from the inventory of the licensee, and clearly and conspicuously labeled 'SAMPLE, NOT FOR RESALE'. If the seal is broken on any liquor bottle or if any liquor bottle is opened, then that liquor bottle must be removed from the licensed premises immediately following the event.

(i) Violations of this section are subject to the civil and criminal penalties set forth in sections twenty-four, twenty-five-a, twenty-six and twenty-seven of this article;

~~(j) To implement the provisions of this section, the commissioner may promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty nine a of this code or propose rules for legislative approval in accordance with the provisions of article three, chapter twenty nine a of this code.~~

§60-3A-3b. Private liquor delivery license for a retail liquor outlet or a third party; requirements; limitations; third party license fee; private liquor bottle delivery permit; requirements, and curbside in-person and in-vehicle delivery by a retail liquor outlet.

(a) A retail liquor outlet that is licensed to sell liquor for off-premises consumption may apply for a private liquor delivery license permitting the order, sale, and delivery of sealed liquor bottles or cans in the original container. The order, sale, and delivery of sealed liquor bottles or cans in the original container is permitted for off-premises consumption when completed by the licensee to a person purchasing the sealed liquor bottles or cans through a telephone, a mobile ordering application, or a web-based software program, authorized by the licensee's license. There is no additional fee for a licensed retail liquor outlet to obtain a private liquor delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for liquor sales or distribution, may apply for a private liquor delivery license for the privilege of ordering and delivery of sealed liquor bottles or cans, from a licensed retail liquor outlet. The order and delivery of sealed liquor bottles or cans permitted for off-premises consumption by a third party licensee when a retail liquor outlet sells to a person purchasing the sealed liquor bottles or cans through telephone orders, a mobile ordering application, or a web-based software program. The private liquor delivery license non-prorated, nonrefundable annual fee is $200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private liquor delivery license application shall comply with licensure requirements in this article and shall provide any information required by the commissioner.

(d) Sale Requirements. -

(1) The purchase of sealed liquor bottles or cans in the original container may accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and sealed liquor bottles or cans in the original container by the licensee or third party licensee;

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery,

and shall meet the requirements set forth in this chapter for the sale of alcoholic liquors and in §11-16-1 *et seq.* of the code, for nonintoxicating beer or nonintoxicating craft beer.

(3) 'Food', for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of up to five 750 milliliter sealed liquor bottles for each order: *Provided*, That the entire delivery order may not contain any combination of sealed liquor bottles or cans in the original container, where the combination is more than 128 fluid ounces of liquor total; and

(5) A third party delivery licensee shall not have a pecuniary interest in a retail liquor outlet, as set forth in this article. A third party private liquor delivery licensee may only charge a convenience fee for the delivery of any alcohol. The third party private liquor delivery licensee may not collect a percentage of the liquor delivery order, but may continue to collect a percentage of the delivery order directly related to food. ~~The convenience fee charged by the third party private liquor delivery licensee to the purchasing person shall be no greater than five dollars per delivery order where a sealed liquor bottle or can in the original container is ordered by the purchasing person. For any third party licensee also licensed for other nonintoxicating beer or nonintoxicating craft beer delivery pursuant to §11-16-1 *et seq.* of this code, wine delivery pursuant to §60-8-1 *et seq.* of this code, or a sealed craft cocktail growler delivery pursuant to §60-7-1 *et seq.* of this code, the total convenience fee of any order, sale, and delivery of sealed alcoholic liquor or nonintoxicating beer, or nonintoxicating craft beer shall not exceed five dollars.~~

(e) *Private Liquor Delivery Requirements.* —

(1) Delivery persons employed for the delivery of a sealed liquor bottles or cans in the original container shall be 21 years of age or older and a retail liquor outlet and a third-party private liquor delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) A retail liquor outlet and a third-party private liquor delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. A retail liquor outlet and a third-party private liquor delivery licensee shall submit certification of the training to the commissioner;

(3) The retail liquor outlet or third party private liquor delivery licensee shall hold a private liquor bottle delivery permit for each vehicle delivering a sealed liquor bottle or can in the original container pursuant to subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) A retail liquor outlet or third party private liquor delivery licensee shall deliver food and a sealed liquor bottle or can order in the original container in the market zone or contiguous market zone where the licensed retail liquor outlet is located;

(5) A retail liquor outlet or third party private liquor delivery licensee may only deliver food and a sealed liquor bottle or can in the original container to addresses located in West Virginia, The retail liquor outlet or third party private liquor delivery licensee shall pay and account for all sales and municipal taxes;

(6) A retail liquor outlet or third party private liquor delivery licensee may not deliver food and a sealed liquor bottle or can in the original container to any licensee licensed under §11-16-1 *et seq.* of this code, and under this chapter;

(7) Deliveries of food and a sealed liquor bottle or can in the original container are only for personal use, and not for resale; and

(8) A retail liquor outlet or third party private liquor delivery licensee shall not deliver and leave food and a sealed liquor bottle or can in the original container at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person shall only permit the person who placed the order through a telephone order, a mobile ordering application ~~applicant~~, or web-based software to accept the food and a sealed liquor bottle or can in the original container for delivery which is subject to verification upon delivery with the delivery person's visual review and verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used shall ~~create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall~~ include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, ~~accessible by the delivery driver for verification,~~ and shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. A retail liquor outlet or third party private liquor delivery licensee shall retain records for three years, and shall not unreasonably withhold the records from the commissioner's inspection; and

(5) The retail liquor outlet or third party delivery licensee shall hold a valid private liquor bottle delivery permit required by subsection (g) of this section for each vehicle that may offer delivery.

(g) *Private Liquor Bottle Delivery Permit*. —.

(1) A retail liquor outlet or third party delivery licensee shall obtain and maintain a retail transportation permit for the delivery of and a sealed liquor bottle or can in the original container.

(2) A retail liquor outlet or third party private delivery licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee

shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) Subject to the requirement of §60-6-12 of this code, a private liquor bottle delivery permit shall meet the requirements of a transportation permit authorizing the permit holder to transport liquor subject to the requirements of this chapter.

(h) *Enforcement*. —

(1) The retail liquor outlet or the licensed third party are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a sealed liquor bottle. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this chapter.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

(i) Retail liquor outlets licensed for off-premises sales of sealed liquor bottles and cans in the original container may provide for the sale and curbside in-person or in-vehicle pick-up of sealed liquor bottles or cans in the original container, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

(j) Retail liquor outlets licensed for off-premises sales of sealed liquor bottles and cans in the original container may provide for the sale and delivery through a drive up or drive through structure, approved by the commissioner, of sealed liquor bottles or cans in

the original container, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

§60-3A-8. Retail license application requirements; retail licensee qualifications.

(a) Prior to or simultaneously with the submission of a bid for a retail license or the payment of a purchase option for a Class A retail license, each applicant shall file an application with the commissioner, stating under oath, the following:

(1) If the applicant is an individual, his or her name and residence address;

(2) If the applicant is other than an individual, the name and business address of the applicant; the state of its incorporation or organization; the names and residence addresses of each executive officer and other principal officer, partner, or member of the entity; a copy of the entity's charter or other agreement under which the entity operates; the names and residence addresses of any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership, or other interests in the applicant; and all applicants and licensees must list a manager on the applicant's license application, or a licensee's renewal application, and further that the manager shall meet all other requirements of licensure, including, but not limited to, United States citizenship or naturalization, passing a background investigation, being at least 21 years of age, ~~being a suitable person, being of good morals and character,~~ and other requirements, all as set forth in the code and the legislative rules, in order for the manager to be able to meet and conduct any regulatory matters, including, but not limited to, licensure or enforcement matters related to the applicant or licensee all in the interest of protecting public health and safety and being a suitable applicant or licensee. In order to maintain active licensure, any change by a licensee in any manager listed on an application must be made immediately to the commissioner, in order to verify that the new manager meets licensure requirements;

(3) That the applicant and manager have not ~~never~~ (A) been convicted in this state or any other state of any felony in the five years preceding the date of application or (B) other crime involving ~~moral turpitude~~ fraud, dishonesty, or deceit in the five years preceding the date of application, or (C) been convicted of any felony in this or any other state court or any federal court for a violation of alcohol-related distribution laws ~~any state or federal liquor law~~, and if the applicant is other than an individual, that none of its executive officers, other principal officers, partners, or members, or any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership, or other interests in the applicant, has been convicted; and

(4) That the applicant and the manager, each is a United States citizen ~~of good moral character~~ and, if a naturalized citizen, when and where naturalized; and, if a corporation organized and authorized to do business under the laws of this state, when and where incorporated, with the name and address of each officer; that each officer is a citizen of the United States ~~and a person of good moral character~~; and if a firm, association, partnership, or limited partnership, that each member is a citizen of the United States and, if a naturalized citizen, when and where naturalized, each of whom must sign the application.

(b) An applicant and manager shall provide the commissioner any additional information requested by the commissioner including, but not limited to, authorization to conduct a criminal background and credit records check.

(c) Whenever a change occurs in any information provided to the commissioner, the change shall immediately be reported to the commissioner in the same manner as originally provided.

(d) The commissioner shall disqualify each bid submitted by an applicant under §60-3A-10 of this code and no applicant shall be issued or eligible to hold a retail license under this article, if:

(1) The applicant has been, within the five years preceding the date of application; (A) convicted in this state of any felony or (B) convicted of a ~~other~~ crime involving fraud, dishonesty, or deceit

~~moral turpitude~~ or (C) convicted of any felony in this or any other state court or any federal court for a violation of alcohol-related distribution laws ~~any state or federal liquor law~~; or

(2) Any executive officer or other principal officer, partner, or member of the applicant, or any person owning, directly or indirectly, at least 20 percent of the outstanding stock, partnership, or other interests in the applicant, has been, within the five yeas preceding the date of application; (A) convicted in this state of any felony or (B) convicted of a ~~other~~ crime involving fraud, dishonesty, or deceit ~~moral turpitude~~ or (C) convicted of any felony in this or any other state court or any federal court for a violation of alcohol-related distribution laws ~~any state or federal liquor law~~.

(e) The commissioner shall not issue a retail license to an applicant which does not hold a license issued pursuant to federal law to sell liquor at wholesale.

§60-3A-17. Wholesale prices set by commissioner; retail licensees to purchase liquor from state; transportation and storage; method of payment.

(a) The commissioner shall fix wholesale prices for the sale of liquor, other than wine, to retail licensees. The commissioner shall sell liquor, other than wine, to retail licensees according to a uniform pricing schedule. The commissioner shall obtain, if possible, upon request, any liquor requested by a retail licensee and those permitted to manufacture and sell liquor pursuant to section three, article four of this chapter.

(b) Wholesale prices shall be established in order to yield a net profit for the General Revenue Fund of not less than $6,500,000 annually on an annual volume of business equal to the average for the past three years. The net revenue derived from the sale of alcoholic liquors shall be deposited into the General Revenue Fund in the manner provided in section seventeen, article three of this chapter.

(c) Notwithstanding any provision of this code to the contrary, the commissioner shall specify the maximum wholesale markup

percentage which may be applied to the prices paid by the commissioner for all liquor, other than wine, in order to determine the prices at which all liquor, other than wine, will be sold to retail licensees. A retail licensee shall purchase all liquor, other than wine, for resale in this state only from the commissioner, and the provisions of §60-6-12 and §60-6-13 of this code ~~of this chapter~~ shall not apply to the transportation of the liquor: *Provided,* That a retail licensee shall purchase wine from a wine distributor who is duly licensed under article eight of this chapter. All liquor, other than wine, purchased by retail licensees shall be stored in the state at the retail outlet or outlets operated by the retail licensee: *Provided, however,* That the commissioner, in his or her discretion, may upon written request permit a retail licensee to store liquor at a site other than the retail outlet or outlets.

(d) The sale of liquor by the commissioner to retail licensees shall be paid by electronic funds transfer which shall be initiated by the commissioner on the business day following the retail licensees order or by money order, certified check or cashier's check which shall be received by the commissioner at least 24 hours prior to the shipping of the alcoholic liquors: *Provided,* That if a retail licensee posts with the commissioner an irrevocable letter of credit or bond with surety acceptable to the commissioner from a financial institution acceptable to the commissioner guaranteeing payment of checks, then the commissioner may accept the retail licensee's checks in an amount up to the amount of the letter of credit.

(e) (1) A retail licensee may not sell liquor to persons licensed under the provisions of article seven of this chapter at less than ~~one hundred ten~~ 115 percent of the retail licensee's cost as defined in §47-11A-6 of this code.

(2) A retail licensee may not sell liquor to the general public at less than 110 percent of the retail licensee's cost as defined in §47-11A-6 of this code.

§60-3A-19. Limitation on amount to be sold.

[Repealed.]

ARTICLE 4. LICENSES.

§60-4-10. Notice of application for license.

[Repealed.]

§60-4-22. Wholesale representatives' licenses.

A person, firm or corporation may not be or act or serve as an agent, broker or salesman selling or offering to sell or soliciting or negotiating the sale of alcoholic liquor to the commission or to any distributor licensed pursuant to article eight of this chapter without first obtaining a license so to do in accordance with the provisions of this section. Only salaried employees of distilleries, manufacturers, producers or processors of alcoholic liquor may be licensed hereunder and no person may be licensed hereunder who sells or offers to sell alcoholic liquor to the commission or any distributor on a fee or commission basis. The commission shall be the licensing authority and may ~~grant to persons of good moral character~~ for the license herein provided and may refuse to grant such license to any person who has been, within the previous five years from the date of the application; (1) convicted of a felony ~~within ten years prior to his or her application for such license,~~ (2) convicted of a crime involving fraud, dishonesty, or deceit, or (3) convicted of a felony crime for a violation of alcohol-relating distribution laws; refuse to grant, suspend, or revoke licenses. Licenses shall be on an annual basis for the period from July 1, until June 30 next following. New and renewal licenses shall be granted only upon verified application to the commission presented on forms provided by the commission. Any person representing more than one producer, manufacturer or distributor of alcoholic liquors shall file a separate application and shall obtain a separate license for each such representation. The annual license fee shall be $10 ~~$100~~. The fee for any license granted for the remainder of any license year between January 1, and June 30 of the same calendar year shall be $5~~0~~.

~~No person who is the father, mother, son, daughter, brother, sister, uncle, aunt, nephew or niece of a member of the commission or of any elected or appointed state official, county official or~~

~~municipal official, or who is the spouse of any such person so related to a member of the commission or to any elected or appointive state official, county official or municipal official, may be granted a license. No member of the Legislature or the spouse of any such member may be granted a license. Nor may any member or officer of any political party executive committee of this state or the spouse of any such member or officer be granted a license.~~

In addition to all other information which the commission may require to be supplied on the license application forms, each applicant shall be required to state his or her name and his or her residence address and the name and business address of the producer, manufacturer or distributor he or she represents; the name and address of each additional producer, manufacturer or distributor of alcoholic liquors he or she represents; the monetary total of all alcoholic liquor sales, if any, made by him or her to the commission or to any distributor licensed pursuant to article eight of this chapter during the fiscal year preceding the license year for which he or she is seeking a license; the monetary total of the gross income received by him or her on such sales, if any, during such fiscal year; whether he or she has, during such fiscal year, made or given, voluntarily or on request, any gift, contribution of money or property to any member or employee of the commission or of any distributor licensed pursuant to article eight of this chapter or to or for the benefit of any political party committee or campaign fund; and his or her relationship, if any, by blood or marriage, to any member of the commission or to any elected or appointive state official, county official or municipal official. All such applications shall be verified by oath of the applicant and shall be prepared and filed in duplicate. All such applications and a current list of all licensees hereunder shall be matters of public record and shall be available to public inspection at the commission's offices at the State Capitol. Every licensee who ceases to be an agent, broker, or salesman, as herein contemplated, shall so advise the commission in writing and such person's name shall be immediately removed from the license list and his or her license shall be canceled and terminated.

All persons licensed under this section shall be authorized representatives of the wineries, farm wineries, distilleries, mini-distilleries, manufacturers, producers or processors of alcoholic liquor they represent. A licensed person may not share, divide or split his or her salary with any person other than his or her wife or some legal dependent, nor may he or she make any contribution to any political party campaign fund in this state.

All licensees shall be subject to all other provisions of this chapter and to the lawful rules promulgated by the commission. Licenses may be refused, suspended or revoked by the commission for cause, including any of the applicable grounds of revocation specified in section nineteen of this article. Provisions of this article relating to notice, hearing and appeals shall, to the extent applicable, govern procedures on suspension and revocation of licenses hereunder.

Any person, firm or corporation violating any provision of this section, including knowingly making of any false statement in a verified application for a license shall be guilty of a misdemeanor offense and shall, upon conviction thereof, be fined not exceeding $1,000 or imprisoned in jail not exceeding twelve months, or be subject to both such fine and imprisonment in the discretion of the court.

§60-4-23. License to operate a facility where exotic entertainment is offered; definitions; restrictions, regulations and prohibitions; prohibitions against minors; application, renewal, license fee, restrictions on transfer; effective date; legislative rules; unlawful acts and penalties imposed.

(a) For purposes of this section:

(1) 'Exotic entertainment' means live nude dancing, nude service personnel or live nude entertainment, and 'nude' means any state of undress in which male or female genitalia or female breasts are exposed.

(2) 'Places set apart for traditional family-oriented naturism' means family nudist parks, clubs and resorts chartered by the American association for nude recreation or the naturist society, including all of their appurtenant business components, and also including places temporarily in use for traditional family-oriented naturist activities.

(b) No person may operate any commercial facility where exotic entertainment is permitted or offered unless such person is granted a license by the commissioner to operate a facility where exotic entertainment may be offered. The provisions of this subsection apply whether or not alcoholic liquor, wine or nonalcoholic beer is legally kept, served, sold, or dispensed in a facility, or purchased for use in a facility, or permitted to be brought by others into a facility and whether or not such person holds any other license or permit issued pursuant to chapter 60 of this code.

(c) A licensee is subject to all the regulatory provisions of §60-7-1 *et seq.* of this code ~~chapter~~, whether or not the licensee is otherwise a private club. The commissioner shall have all the powers and authorization granted under §60-7-1 *et seq.* of this code ~~chapter~~ to regulate, restrict, and sanction a licensee under this section. No licensee may purchase, keep, sell, serve, dispense, or purchase for use in a licensed facility, or permit others to bring into the facility, any alcoholic liquor, wine, or nonintoxicating beer or nonintoxicating craft beer without having the appropriate license ~~therefor~~. No licensee may operate a private club without being licensed ~~therefor~~.

(d) No person or licensee may allow a person under the age of 18 years to perform as an exotic entertainer. No person under the age of 21 years, other than a performing exotic entertainer, may be allowed to be in a commercial facility on any day on which any exotic entertainment is offered therein. No licensee may hold special nonalcoholic entertainment events for persons under age 21 pursuant to the provisions of §60-7-8 of this code ~~chapter~~ in the licensed facility.

~~(e) Any person operating a commercial facility where exotic entertainment is offered on the effective date of this section may~~

~~apply to the commissioner for a license to operate a facility where exotic entertainment may be offered. Applications must be filed with the commissioner on or before July 1, 2000; thereafter no application for license may be received by the commissioner. The commissioner may issue a license to a person complying with the provisions of this chapter. Upon application for renewal, the commissioner shall annually, on July 1, of each succeeding year, renew the license of any licensee then in compliance with the provisions of this chapter. The commissioner shall specify the form of application and information required of applicants and licensees. No license which has lapsed, been revoked or expired without renewal may be reissued.~~

(~~f~~e) A person to whom a license is issued or renewed under the provisions of this section shall pay annually to the commissioner a license fee of $3,000. A municipal corporation wherein any such licensee is located shall issue a municipal license to any person to whom the commissioner has issued a license and may impose a license fee not in excess of the state license fee.

(~~g~~f) A person shall not sell, assign, or otherwise transfer a license without the prior written approval of the commissioner. For purposes of this section, the merger of a licensee or the sale of more than 50 percent of the outstanding stock of or partnership interests in the licensee shall be deemed to be a sale, assignment, or transfer of a license under this section. A license shall not be transferred to another location, except within the county of original licensure. A transferee of a licensed facility may apply for reissuance of the transferor's license if the transferee applicant otherwise qualifies for a license. The commissioner is authorized to propose the promulgation of a legislative rule in accordance with the provisions of chapter 29A of this code, to implement the provisions of this subsection.

~~(h) This section shall be effective upon passage by the Legislature in the year 2000. On or before May 1, 2000, the commissioner shall promulgate an emergency legislative rule pursuant to the provisions of chapter twenty-nine-a of this code to effectuate the provisions of this section, and shall propose a~~

~~legislative rule therefor, for consideration by the Legislature, prior to December 31, 2000.~~

(~~i~~g) Any person who violates any provision of this section, or principal of a firm or corporation which violates any provision of this section, or licensee, agent, employee, or member of any licensee who violates any provision of this section, or who violates any of the provisions of §60-7-12 of this code ~~chapter~~, on the premises of a licensed facility, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $1,000 nor more than $3,000, or imprisoned for a period not to exceed one year, or both so fined and imprisoned.

(~~j~~h) The provisions of this section do not apply to places set apart for traditional family-oriented naturist activities.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-24. Requirement for posting informational sign.

~~Each store or outlet controlled or operated by the state Alcohol Beverage Control Commission, and any store, supermarket, club, restaurant, or~~ Any licensee licensed under this chapter to sell alcoholic liquors, including liquor, wine, hard cider, ~~other facility selling alcoholic beverages or~~ nonintoxicating beer, or nonintoxicating craft beer for either ~~on-premise~~ on-premises or ~~off-premise~~ off-premises consumption, shall post in an open and prominent place within ~~such~~ the establishment a blood-alcohol chart containing information showing the estimated percent of alcohol in the blood by the number of drinks in relation to body weight and time of consumption, ~~as follows:~~

~~FORM OMITTED~~

~~FORM OMITTED~~

~~The size of display and location of said blood-alcohol chart shall be prescribed by the commissioner, by rule and regulation~~ as provided in the chart available on the Commissioner's website. Enforcement of the posting provisions of this section shall be carried out by the ~~West Virginia nonintoxicating beer~~

~~commissioner~~ Commissioner ~~in establishments which are~~ for all licensees required to post ~~such~~ the notice. ~~but are not subject to the supervision of the West Virginia Alcohol Beverage Control Commissioner~~

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-2. Definitions; authorizations; requirements for certain licenses.

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

~~(a)~~ 'Applicant' means a private club applying for a license under the provisions of this article.

~~(b)~~ 'Code' means the official Code of West Virginia, 1931, as amended.

~~(c)~~ 'Commissioner' means the West Virginia Alcohol Beverage Control Commissioner.

~~(d)~~ 'Licensee' means the holder of a license to operate a private club granted under this article, which remains unexpired, unsuspended, and unrevoked.

~~(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; (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; (3) is organized and operated for legitimate purposes which has at least 100 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.

'Private bakery' means an applicant for a private club or licensed private club licensee that has a primary function of operating a food preparation business that produces baked goods, including brownies, cookies, cupcakes, confections, muffins, breads, cakes, wedding cakes, and other baked goods. The applicant or licensee desires to sell baked goods infused with liquor, wine, or nonintoxicating beer or nonintoxicating craft beer either: (i) in the icing, syrup, drizzle, or some other topping; (ii) as an infusion where the alcohol is not processed or cooked out of the baked goods; or (iii) the alcohol can be added by the purchaser

from an infusion packet containing alcohol no greater than 10 milliliters; *Provided*, That any bakery wishing to sell items less than one-half a percent are considered nonalcoholic and does not need a license pursuant to this section. This applicant or licensee may not sell liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on or off premises consumption unless properly licensed for such sales as a private club restaurant. This applicant or licensee may sell the baked goods with alcohol added for on and off premises consumption. Further, the applicant or licensee shall meet the criteria set forth in this subsection which:

(1) Has at least 50 members;

(2) Operates a kitchen that produces baked goods, as noted above, including at least: (A) A baking oven and a four-burner range or hot plate; (B) a sink with hot and cold running water; (C) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer, which is not used for alcohol cold storage; (D) baking utensils and pans, kitchen utensils and other food consumption apparatus, as determined by the commissioner; and (E) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(3) Maintains, at any one time, $750 of food inventory capable of being prepared in the private bakery's kitchen. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, prepackaged foods, baking items such as flour, sugar, icing and other confectionary items, or canned prepared foods;

(4) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 who are in the private bakery are not served products containing alcohol, and a person under 21 years of age may purchase products sold by the private bakery that do not contain any alcohol; and

(5) Meets and is subject to all other private club requirements.

'Private cigar shop' means an applicant for a private club or licensed private club licensee that has a primary function of operating a cigar shop for sales of premium cigars for consumption on or off the licensed premises. Where permitted by law, indoor on-premises cigar consumption is permitted with a limited food menu (food requirements can be met by utilizing a private caterer) for members and guests while the private club applicant or licensee is selling and serving liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on-premises consumption. Further, the applicant or licensee shall meet the criteria set forth in this subsection which:

(1) Has at least 50 members;

(2) Operates a cigar shop and bar with a kitchen, including at least: (A) A two-burner hot plate, air fryer, or microwave oven; (B) a sink with hot and cold running water; (C) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer, which is not used for alcohol cold storage; (D) kitchen utensils and other food consumption apparatus, as determined by the commissioner; and (E) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(3) Maintains, at any one time, $500 of food inventory capable of being prepared in the private club bar's kitchen or has on hand at least $150 in food provided by a private caterer. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, prepackaged foods, or canned prepared foods;

(4) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 may not be served any liquor, wine, nonintoxicating beer or nonintoxicating craft beer, persons under the age of 18 who are in the private cigar shop are accompanied by a parent or legal guardian, and if a person under 18 years of age is not accompanied by a parent or legal guardian that person may not be admitted as a guest; and

(5) Meets and is subject to all other private club requirements.

'Private caterer' means ~~a~~ any licensed entity ~~private club restaurant~~ authorized by the commissioner to cater and serve food and sell and serve alcoholic liquors, or non-intoxicating beer, or non-intoxicating craft beer. A private caterer shall purchase wine sold or served at a catering event from a wine distributor. A private caterer shall purchase nonintoxicating beer and nonintoxicating craft beer sold or served at the catering event from a licensed beer distributor. A private caterer shall purchase liquor from a retail liquor outlet authorized to sell in the market zone, where the catering event is held. The private caterer or the persons or entity holding the catering event shall:

(1) Have at least 10 members and guests attending the catering event;

(2) Have obtained an open container waiver or have otherwise been approved by a municipality or county in which the event is being held;

(3) Operate a private club restaurant on a daily operating basis;

(4) Only use its employees, independent contractors, or volunteers to sell and serve alcoholic liquors who have received certified training in verifying the legal identification, the age of a purchasing person, and the signs of visible, noticeable, and physical intoxication;

(5) Provide to the commissioner, at least ~~7~~ seven days before the event is to take place:

(A) The name and business address of the unlicensed private venue where the private caterer is to provide food and alcohol for a catering event;

(B) The name of the owner or operator of the unlicensed private venue;

(C) A copy of the contract or contracts between the private caterer, the person contracting with the caterer, and the unlicensed private venue;

(D) A floorplan of the unlicensed private venue to comprise the private catering premises, which shall only include spaces in buildings or rooms of an unlicensed private venue where the private caterer has control of the space for a set time period where the space safely accounts for the ingress and egress of the stated members and guests who will be attending the private catering event at the catering premises. The unlicensed private venue's floorplan during the set time period as stated in the contract shall comprise the private caterer's licensed premises, which is authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer, and wine throughout the licensed private catering premises; *Provided*, That the unlicensed private venue shall: (i) Be inside a building or structure, (ii) have other facilities to prepare and serve food and alcohol, (iii) have adequate restrooms, and sufficient building facilities for the number of members and guests expected to attend the private catering event, and (iv) otherwise be in compliance with health, fire, safety, and zoning requirements;

(6) Not hold more than 15 private catering events per calendar year. Upon reaching the 16th event, the unlicensed venue shall obtain its own private club license;

(7) Submit to the commissioner, evidence that any noncontiguous area of an unlicensed venue is within 150 feet of the private caterer's submitted floorplan and may submit a floorplan extension for authorization to permit alcohol and food at an outdoor event;

(8) Meet and be subject to all other private club requirements; and

(9) Use an age verification system approved by the commissioner.

~~(g)~~ 'Private club bar' means an applicant for a private club or licensed private club licensee that has a primary function for the use of the licensed premises as a bar for the sale and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer when licensed for ~~such~~ those sales, while providing a limited food menu for members and guests, and meeting the criteria set forth in this subsection which:

(1) Has at least 100 members;

(2) Operates a bar with a kitchen, including at least: (A) A two-burner hot plate, air fryer, or microwave oven; (B) a sink with hot and cold running water; (C) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer, which is not used for alcohol cold storage; (D) kitchen utensils and other food consumption apparatus, as determined by the commissioner; and (E) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(3) Maintains, at any one time, $500 of food inventory capable of being prepared in the private club bar's kitchen. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, prepackaged foods, or canned prepared foods;

(4) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 18 who are in the private club bar are accompanied by a parent or legal guardian, and if a person under 18 years of age is not accompanied by a parent or legal guardian that person may not be admitted as a guest; and

(5) Meets and is subject to all other private club requirements.

'Private food truck' means an applicant for a private club, licensed private club licensee, or licensed private manufacturer's club licensee that has a primary function of operating a food preparation business using an industrial truck, van, or trailer to prepare food and meals while utilizing a propane or electric generator powered kitchen, for sale at various locations within the

state. The private food truck applicant shall obtain county or municipal approval to operate for food and liquor, wine, and nonintoxicating beer or nonintoxicating craft beer sales and service, while displaying or otherwise making available a food menu for members and guests. The private food truck applicant shall meet the criteria set forth in this subsection which:

(1) Has at least 10 members;

(2) Operates with a kitchen, including at least: (A) A two-burner hot plate, air fryer, fryer, grill, or microwave oven; (B) a sink with hot and cold running water; (C) at least a 10 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer, which is not used for alcohol cold storage; and (D) plastic or metal kitchen utensils and other food consumption apparatus, as determined by the commissioner;

(3) Maintains, at any one time, $500 of food inventory that is fit for human consumption and capable of being prepared and served from the private food truck's kitchen during all hours of operation;

(4) Shall be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private food truck is to be located and operate, and further each location shall have a bounded and defined area and set hours for private food truck operations, sales, and consumption of alcohol that are not greater than a private club's hours of operation;

(5) Provides the commissioner with a list of all locations, including a main business location, where the private food truck operates, and is approved for sales pursuant to subdivision (4) above, and update the commissioner when new locations are approved by a county or municipality;

(6) Requires all nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section to be purchased from the licensed distributor, all in accordance with §11-16-1 *et seq.* of this code.

(7) Requires wine or hard cider sold, furnished, tendered, or served pursuant to the license created by this section to be purchased from a licensed distributor, winery, or farm winery in accordance with §60-8-1 *et seq.* of this code.

(8) Requires liquor sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone, all in accordance with §60-3A-1 *et seq.* of this code.

(9) A licensee authorized by this section shall utilize bona fide employees to sell, furnish, tender, or serve the nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

(10) A brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery may obtain a private food truck license;

(11) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor broker representatives may attend a location where a private food truck is located and discuss their respective products but may not engage in the selling, furnishing, tendering, or serving of any nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

(12) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 are not served liquor, wine, nonintoxicating beer or nonintoxicating craft beer, but any person under the age of 21 may purchase and be served food or other nonalcoholic drinks;

(13) Obtains all permits required by §60-6-12 of this code; and

(14) Meets and is subject to all other applicable private club requirements.

~~(h)~~ 'Private club restaurant' means an applicant for a private club or licensed private club licensee that has a primary function of using the licensed premises as a restaurant for serving freshly prepared meals and dining in the restaurant area. The private club

restaurant may have a bar area separate from or commingled with the restaurant, seating requirements for members and guests ~~must~~ shall be met by the restaurant area. The applicant for a private club restaurant license shall meet the criteria set forth in this subsection which:

(1) Has at least 100 members;

(2) Operate a restaurant and full kitchen with at least: (A) Ovens and four-burner ranges; (B) refrigerators or freezers, or some combination of refrigerators and freezers, greater than 50 cubic feet, or a walk-in refrigerator or freezer; (C) other kitchen utensils and apparatus, as determined by the commissioner; and (D) freshly prepared food fit for human consumption available to be served during all hours of operation on the licensed premises;

(3) Maintains, at any one time, $1,000 of fresh food inventory capable of being prepared in the private club restaurant's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips, or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(4) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under 18 years of age who are in the bar area of a private club restaurant are accompanied by a parent or legal guardian. The licensee may not seat a person in the bar area who is under the age of 18 years and who is not accompanied by a parent or legal guardian, but may allow that person, as a guest, to dine for food and nonalcoholic beverage purposes in the restaurant area of a private club restaurant:

(5) May uncork and serve members and guests up to two bottles of wine that a member purchased from a wine retailer, wine specialty shop, an applicable winery or farm winery when licensed for retail sales, or a licensed wine direct shipper when the purchase is for personal use and, not for resale. The licensee may charge a corkage fee of up to $10 dollars per bottle. In no event may a member or a group of members and guests exceed two sealed

bottles or containers of wine to carry onto the licensed premises for uncorking and serving by the private club restaurant and for personal consumption by the member and guests. A member or guest may cork and reseal any unconsumed wine bottles as provided in §60-8-3(j) of this code and the legislative rules, for carrying unconsumed wine off the licensed premises;

(6) ~~Must~~ Shall have at least two restrooms for members and their guests: *Provided*, That this requirement may be waived by the local health department upon supplying a written waiver of the requirement to the commissioner: *Provided, however*, That the requirement may also be waived for a historic building by written waiver supplied to commissioner of the requirement from the historic association or district with jurisdiction over a historic building: *Provided, further* That in no event ~~shall~~ may a private club restaurant have less than one restroom; and

(7) Shall meet and be subject to all other private club requirements.

~~(i)~~ 'Private manufacturer club' means an applicant for a private club or licensed private club licensee which is also licensed as a distillery, mini-distillery, micro-distillery, winery, farm winery, brewery, or resident brewery that manufacturers liquor, wine, nonintoxicating beer, or nonintoxicating craft beer, which may be sold, served, and furnished to members and guests for on-premises consumption at the licensee's licensed premises and in the area or areas denoted on the licensee's floorplan, and which meets the criteria set forth in this subsection and which:

(1) Has at least 100 members;

(2) Offers tours, may offer complimentary samples, and may offer space as a conference center or for meetings;

(3) Operates a restaurant and full kitchen with ovens, four-burner ranges, a refrigerator, or freezer, or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 15 hours per week;

(4) Maintains, at any one time, $500 of fresh food inventory capable of being prepared in the private manufacturer club's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips, or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(5) Owns or leases, controls, operates, and uses acreage amounting to at least one acre which is contiguous bounded or fenced real property that would be listed on the licensee's floorplan and may be used for large 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 manufacturer club's floorplan that would comprise the licensed premises, which would be authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, and wine throughout the licensed premises, whether these activities were conducted in a building or structure or outdoors while on the private manufacturer club's licensed premises, and as noted on the private manufacturer club's floorplan;

(7) Identifies a person, persons, an entity, or entities who or which has right, title, and ownership or lease interest in the real property, buildings, and structures located on the proposed licensed premises;

(8) Uses an age verification system approved by the commissioner; and

(9) Meets and is subject to all other private club requirements.

~~(j)~~ 'Private fair and festival' means an applicant for a private club or a licensed private club meeting the requirements of §60-7-8a of this code for a temporary event, and the criteria set forth in this subsection which:

(1) Has at least 100 members;

(2) Has been sponsored, endorsed, or approved, in writing, by the governing body (or its duly elected or appointed officers) of either the municipality or of the county in which the festival, fair, or other event is to be conducted;

(3) Prepares, provides, or engages a food vendor to provide adequate freshly prepared food or meals to serve its stated members and guests who will be attending the temporary festival, fair, or other event, and further shall provide any such documentation or agreements ~~of such~~ to the commissioner prior to approval;

(4) Does not use third-party entities or individuals to purchase, sell, furnish, or serve alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer;

(5) Provides adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the festival, fair, or other event;

(6) Provides a floorplan for the proposed premises with a defined and bounded area to safely account for the ingress and egress of stated members and guests who will be attending the festival, fair, or other event;

(7) Uses an age verification system approved by the commissioner; and

(8) Meets and is subject to all other private club requirements.

~~(k)~~ 'Private 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 2,000 members;

(2) Offers short-term, daily rate accommodations or lodging for members and their guests amounting to at least 30 separate bedrooms, and also offers a conference center for meetings;

(3) Operates a restaurant and full kitchen with ovens, four-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 20 hours per week;

(4) Maintains, at any one time, $2,500 of fresh food inventory capable of being prepared in the private 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 more than one acre but fewer than three acres, which are contiguous acres of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for hotel and conferences 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 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 hotel's licensed premises and as noted on the private hotel's floorplan;

(7) Has an identified person, 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;

(8) Uses an age verification system approved by the commissioner; ~~and~~

(9) Meets and is subject to all other private club requirements; and

(10) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have secure access to an in-room mini-bar in their rented short-term accommodation including limited amounts of liquor, wine, and nonintoxicating beer or nonintoxicating craft beer and any

combination of canned or packaged food fit for consumption. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed premises. The mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

~~(l)~~ '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 5,000 members;

(2) Offers short-term, daily rate accommodations or lodging for members and their guests amounting to at least 50 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 25 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 10 contiguous acres of bounded or fenced real property which would be listed on the licensee's 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, 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;

(8) Uses an age verification system approved by the commissioner;

(9) Meets and is subject to all other private club requirements; ~~and~~

(10) May have a separately licensed resident brewer with a brewpub license inner-connected via a walkway, doorway, or entryway, all as determined and approved by the commissioner, for limited access during permitted hours of operation for tours and complimentary samples at the resident brewery; and

(11) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have access to an in-room mini-bar in their rented short-term accommodation including limited amounts of liquor, wine, and nonintoxicating beer or nonintoxicating craft beer and any combination of canned or packaged food fit for consumption. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed

premises. The mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

~~(m)~~ '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 100 members;

(2) Maintains at least one 18-hole golf course with separate and distinct golf playing holes, not reusing nine golf playing holes to comprise the 18 golf playing holes, and a clubhouse;

(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 15 hours per week;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least 80 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, persons, or entity that has right, title, and ownership interest in the real property, buildings, and structures located on the proposed licensed premises;

(7) Uses an age verification system approved by the commissioner; and

(8) Meets and is subject to all other private club requirements.

~~(n)~~ 'Private nine-hole golf course' 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 50 members;

(2) Maintains at least one nine-hole golf course with separate and distinct golf playing holes;

(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 15 hours per week;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least 30 contiguous acres of bounded or fenced real property which would be listed on the private nine-hole golf course'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 nine-hole golf course'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 nine-hole golf course's licensed premises and as noted on the private nine-hole golf course's floorplan;

(6) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(7) Uses an age verification system approved by the commissioner; and

(8) Meets and is subject to all other private club requirements.

~~(o)~~ 'Private tennis 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 100 members;

(2) Maintains at least four separate and distinct tennis courts, either indoor or outdoor, and a clubhouse or similar facility;

(3) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and is capable of serving freshly prepared food;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least two contiguous acres of bounded or fenced real property which would be listed on the private tennis club's floorplan and could be used for tennis events and large events such as weddings, reunions, conferences, tournaments, 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 tennis club's floorplan that 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 tennis club's licensed premises and as noted on the private tennis club's floorplan;

(6) Has identified a person, persons, an entity, or entities who or which has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(7) Meets and is subject to all other private club requirements; and

(8) Uses an age verification system approved by the commissioner.

'Private college sports stadium' means an applicant for a private club or licensed private club licensee that operates a college

or university stadium for Division I, II, or III and involves a college or university that is a member of the National Collegiate Athletic Association, or its successor, and uses the facility for football, basketball, baseball, soccer, or other Division I, II, or III sports, reserved weddings, reunions, conferences, meetings, concerts, or other special events and does not maintain daily or regular operating hours as a bar or restaurant. The licensee may sell alcoholic liquors when conducting or temporarily hosting noncollegiate sporting events. This license may be issued in the name of the National Collegiate Athletic Association Division I, II, or III college or university or the name of the primary food and beverage vendor under contract with that college or university. All alcohol sales shall take place within the confines of the college stadium: *Provided*, That any outside area approved for alcohol sales shall be surrounded by a fence or other barrier prohibiting entry except upon the college or university's express permission, and under the conditions and restrictions established by the college or university, so that the alcohol sales area is closed in order to prevent entry and access by the general public. Further the applicant shall:

(A) Have at least 100 members;

(B) Maintain an open air or closed air stadium venue primarily used for sporting events, such as football, basketball, baseball, soccer, or other Division I, II, or III sports, and also weddings, reunions, conferences, meetings, concerts, or other events where parties shall reserve the college stadium venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens and equipment that is at least equivalent to that of a private club restaurant on the licensed premises and capable of serving freshly prepared food, or meals to serve its stated members, guests, and patrons who will be attending the event at the private college sports stadium;

(D) Own or lease, control, operate, and use acreage amounting to at least one contiguous acre of bounded or fenced real property which would be listed on the private college stadium's floorplan

and could be used for contracted for temporary non-collegiate sporting events, group-type weddings, reunions, conferences, meetings, concerts, or other events;

(E) List the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private college sports stadium'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 college sports stadium's licensed premises and as noted on the private college sports stadium's floorplan;

(F) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(G) Meet and be subject to all other private club requirements; and

(H) Use an age verification system approved by the commissioner.

~~(p)~~ 'Private professional sports stadium' means an applicant for a private club or licensed private club licensee that is only open for professional sporting events when ~~such~~ the events are affiliated with or sponsored by a professional sporting association, reserved weddings, reunions, conferences, meetings, concerts, or other special events and does not maintain daily or regular operating hours as a bar or restaurant. The licensee may ~~not~~ sell alcoholic liquors when conducting or hosting non-professional sporting events, when providing prior notice to the commissioner, and further the applicant shall:

(1) Have at least 1000 members;

(2) Maintain an open air or closed air stadium venue primarily used for sporting events, such as football, baseball, soccer, auto racing, or other professional sports, and also weddings, reunions,

conferences, meetings, concerts, or other events where parties ~~must~~ shall reserve the stadium venue in advance of the event;

(3) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and capable of serving freshly prepared food, or meals to serve its stated members, guests, and patrons who will be attending the event at the private professional sports stadium;

(4) Own or lease, control, operate, and use acreage amounting to at least 3 contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the professional sports stadium's floorplan and could be used for contracted for professional sporting events, group-type weddings, reunions, conferences, meetings, or other events;

(5) List the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private professional sports stadium'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 professional sports stadium's licensed premises and as noted on the private professional sports stadium's floorplan;

(6) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(7) Meet and be subject to all other private club requirements; and

(8) Use an age verification system approved by the commissioner.

~~(q)~~ 'Private farmers market' means an applicant for a private club or licensed private club licensee that operates as an association of bars, restaurants, retailers who sell West Virginia made products among other products, and other stores who open primarily during daytime hours of 6:00 a.m. to 6:00 p.m., but may operate in the day

or evenings for special events where the sale of food and alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer may occur for on-premises consumption, such as reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant, and all business that are members of the association have agreed in writing to be liable and responsible for all sales, service, furnishing, tendering and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer occurring on the entire licensed premises of the private farmer's market, including indoor and outdoor bounded areas, and further the applicant shall:

(1) Have at least 100 members;

(2) Have one or more members operating a private club restaurant and full kitchen with ovens, four-burner ranges, a refrigerator, or freezer (or some combination of the two), and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 15 hours per week;

(3) Have one or more members operating who maintain, at any one time, $1,000 of fresh food inventory capable of being prepared for events conducted at the private farmers market in the private club restaurant's full kitchen, and in calculating the food inventory the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(4) Have an association that owns or leases, controls, operates, and uses acreage amounting to more than one acre, which is contiguous acreage of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for large contracted for reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events;

(5) Have an association that lists in the application for licensure the entire property and all adjoining buildings and structures on the

private farmers market's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private farmers market's licensed premises and as noted on the private farmers market's floorplan;

(6) Have an identified person, 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;

(7) Have at least two separate and unrelated vendors applying for the license and certifying that all vendors in the association have agreed to the liability, responsibility associated with a private farmers market license;

(8) Only use its employees, independent contractors, or volunteers to purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer, or nonintoxicating craft beer;

(9) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private farmers market;

(10) Provide a copy of a written agreement between all the vendors of the association that is executed by all vendors stating that each vendor is jointly and severally liable for any violations of this chapter committed during the event;

(11) Provide a security plan indicating all vendor points of service, entrances, and exits in order to verify members, patrons, and guests ages, whether a member, patron, or guest is intoxicated and to provide for the public health and safety of members, patrons, and guests;

(12) Use an age verification system approved by the commissioner; and

(13) Meet and be subject to all other private club requirements.

~~(r)~~ 'Private wedding venue or barn' means an applicant for a private club or licensed private club licensee that is only open for reserved weddings, reunions, conferences, meetings, or other events and does not maintain daily or regular operating hours, and which:

(1) Has at least 25 members;

(2) Maintains a venue, facility, barn, or pavilion primarily used for weddings, reunions, conferences, meetings, or other events where parties ~~must~~ shall reserve or contract for the venue, facility, barn, or pavilion in advance of the event;

(3) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and is capable of serving freshly prepared food, or may engage a food caterer to provide adequate freshly prepared food or meals to serve its stated members, guests, and patrons who will be attending the event at the private wedding venue or barn. The applicant or licensee shall provide written documentation including a list of food caterers or written agreements regarding any food catering operations to the commissioner prior to approval of a food catering event;

(4) Owns or leases, controls, operates, and uses acreage amounting to at least two contiguous acres of bounded or fenced real property. The applicant or licensee shall verify that, the property is less than two acres and is remotely located, subject to the commissioner's approval. The bounded or fenced real property may be listed on the private wedding venue's floorplan and may be used for large events such as weddings, reunions, conferences, meetings, or other events;

(5) Lists the entire property from subdivision (4) of this subsection and all adjoining buildings and structures on the private wedding venue or barn's floorplan that 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 wedding

venue or barn's licensed premises and as noted on the private wedding venue or barn's floorplan;

(6) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(7) Meets and is subject to all other private club requirements; and

(8) Uses an age verification system approved by the commissioner.

~~(s)~~ 'Private multi-sport complex' means an applicant for a private club or licensed private club licensee that is open for multiple sports events to be played at the complex facilities, reserved weddings, concerts, reunions, conferences, meetings, or other special events, and which:

(1) Has at least 100 members;

(2) Maintains an open air multi-sport complex primarily for use for sporting events, such as baseball, soccer, basketball, tennis, frisbee, or other sports, but may also conduct weddings, concerts, reunions, conferences, meetings, or other events where parties ~~must~~ shall reserve the parts of the sports complex in advance of the sporting or other event;

(3) Operates a restaurant and full kitchen with ovens in the licensee's main facility, as determined by the commissioner, on the licensed premises and capable of serving freshly prepared food, or meals to serve its stated members, guests, and patrons who will be attending the event at the private ~~professional sports stadium~~ multi-sport complex. A licensee may contract with temporary food vendors or food trucks for food sales only, but not on a permanent basis, in areas of the multi-sport complex not readily accessible by the main facility;

(4) Maintains, at any one time, $1,000 of fresh food inventory capable of being prepared in the private multi-sport complex's full kitchen. In calculating the food inventory, the commissioner may

not include television dinners, bags of chips, or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(5) Owns or leases, controls, operates, and uses acreage amounting to at least 50 contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private multi-sport complex's floorplan and could be used for contracted for sporting events, group-type weddings, concerts, reunions, conferences, meetings, or other events;

(6) Lists the entire property from subdivision (5) of this subsection and all adjoining buildings and structures on the private multi-sport complex'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 multi-sport complex's licensed premises and as noted on the private multi-sport complex's floorplan. The licensee may sell alcoholic liquors from a golf cart or food truck owned or leased by the licensee and also operated by the licensee when the golf cart or food truck is located on the private multi-sport complex's licensed premises;

(7) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(8) Meets and is subject to all other private club requirements; and

(9) Uses 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 park

or airport to any corporation or unincorporated association for the establishment of a private club pursuant to this article.

§60-7-2a. Dual licensing permitted; conditions.

(a) Any licensee defined in §60-7-2 of this code is authorized to apply for and hold additional licenses for the purpose of holding events, such as fairs and festivals, and creating tourism opportunities that will show case businesses in this state.

(b) A licensee may host an event on the licensee's licensed premises if the licensee is in good standing with the Commissioner and the licensee submits to the Commissioner its floorplan of the licensed venue in which the event would be held to comprise the event's lawful premises, which shall only include spaces in buildings or rooms of the licensed premises where the licensee has control of the space for the set time period where the space safely accounts for the ingress and egress of the stated members and guests who will be attending the event at the licensed premises. The venue's floorplan during the set time period as stated in the contract shall comprise the licensed premises for the event, which is authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer, and wine throughout the licensed premises; *Provided*, That the venue shall: (i) Have facilities to prepare and serve food and alcohol, (ii) have adequate restrooms, and sufficient building facilities for the number of members and guests expected to attend the event, and (iii) otherwise be in compliance with health, fire, safety, and zoning requirements.

(c) A licensee defined in §60-7-2 of this code may not be limited or restricted in any way as to the number of events that may be held on the premises so long as the licensee continues to operate its primary business in good standing with the Commissioner.

§60-7-6. Annual license fee; partial fee; and reactivation 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 is $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 is $1,000 if the private club bar or restaurant has fewer than 1,000 members; $1,000 for a private club restaurant, private hotel, private resort hotel, or other appropriate licensed entity to be licensed as a private caterer as defined in §60-7-2 of this code; $1,000 if the private club is licensed as a private food truck; $100 if the private club is a private bakery; $1,500 if the private club is a private wedding venue or barn or a private cigar shop; $2,000 if the private club is a private nine-hole golf course, private farmers market, private college sports stadium, private professional sports stadium, private multi-sport complex, private manufacturer club, or a private tennis club as defined in §60-7-2 of this code; $2,500 if the private club bar or private club restaurant has 1,000 or more members; $4,000 if the private club is a private hotel with three or fewer designated areas or a private golf club as defined in §60-7-2 of this code; and further, if the private club is a private resort hotel as defined in §60-7-2 of this code, the 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 is $7,500 and the annual license fee for a private resort hotel with at least six, but no more than 10 designated areas is $12,500. The annual license fee for a private resort hotel with at least 11, but no more than 15 designated areas shall be $17,500. The annual license fee for a private resort hotel with no fewer than 15 nor more than 20 designated areas is $22,500. A private resort hotel that 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 license issued following January 1 of any year that expires on June 30 of that year is one half of the annual license fee prescribed by subsections (a) and (b) of this section.

(d) A licensee that fails to complete a renewal application and make payment of its annual license fee in renewing its license on

or before June 30 of any subsequent year, after initial application, shall be charged an additional $150 reactivation fee. The fee payment may not be prorated or refunded, and the reactivation fee shall be paid prior to the processing of any renewal application and payment of the applicable full year annual license fee. A licensee who continues to operate upon the expiration of its license is subject to all fines, penalties, and sanctions available in §60-7-13 and §60-7-13a of this code, all as determined by the commissioner.

(e) The commissioner shall pay the fees to the State Treasurer and credited to the General Revenue Fund of the state.

(f) The Legislature finds that the hospitality industry has been particularly damaged by the COVID-19 pandemic and that some assistance is warranted to promote reopening and continued operation of private clubs and restaurants licensed under this article. Accordingly, the fees set forth in subsections (a) and (b) of this section are temporarily modified as follows;

(1) License fees for the license period beginning July 1, 2021, shall be reduced to one-third of the rate set forth in subsections (a) and (b) of this section;

(2) License fees for the license period beginning July 1, 2022, shall be reduced to one-third ~~two-thirds~~ of the rate set forth in subsections (a) and (b) of this section; ~~and~~

(3) License fees for the license period beginning July 1, 2023, shall be reduced to two-thirds of the rate set forth in subsections (a) and (b) of this section; and,

(~~3~~4) License fees for the license period beginning July 1, 202~~3~~4, and beyond, shall be as set forth in subsections (a) and (b) of this section.

§60-7-8a. Special license for a private fair and festival; licensee fee and application; license fee; license subject to provisions of article; exception.

(a) There is hereby created a special license designated Class S2 private fair and festival license for the retail sale of liquor, wine,

nonintoxicating beer, and nonintoxicating craft beer for on-premises consumption.

(b) To be eligible for the license authorized by subsection (a) of this section, the private fair and festival or other event shall:

(1) Be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private fair and festival or other event is located;

(2) Shall make application with the commission at least 15 days pursuant to the private fair, festival, or other event;

(3) Pay a nonrefundable nonprorated license fee of ~~$750~~ $500; and

(4) Be approved by the commissioner to operate the private fair, festival, or other event. (c) A private fair and festival license under this section shall be for a duration of no more than 10 consecutive days ~~and no more than six licenses may be issued to the same person or entity in a calendar year~~.

(d) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section must be purchased from the licensed distributor that services the area in which the private fair and festival is held or from a resident brewer acting in a limited capacity as a distributor, all in accordance with §11-16-1 *et seq.* of this code. Sales of sealed containers of nonintoxicating beer or nonintoxicating craft beer may be sold for off-premises consumption if the nonintoxicating beer and nonintoxicating craft beer are purchased from the licensed distributor that services the area in which the private fair, festival, or other event is being held and such licensed distributor agrees to offer such sales prior to the start of the private fair, festival, or other event.

(e) Wine sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed distributor, winery, or farm winery in accordance with §60-8-1 *et seq.* of this code. Sales of sealed containers of wine may be sold for off-premises consumption if the wine is purchased from a

licensed distributor, winery, or farm winery and the licensed distributor, winery, or farm winery agrees to offer sales prior to the start of the private fair, festival, or other event.

(f) Liquor sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone where the private fair or festival is occurring, all in accordance with §60-3A-1 *et seq.* of this code. Sales of sealed containers of liquor may be sold for off-premises consumption if the liquor is purchased from the licensed retail liquor outlet in the market zone or contiguous market zone where the private fair, festival, or other event is occurring and the licensed retail liquor outlet agrees to offer such sales prior to the start of the private fair, festival, or other event.

(g) A licensee authorized by this section may utilize bona fide employees or volunteers to sell, furnish, tender, or serve the nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

(h) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, and liquor broker representatives may attend a private fair and festival and discuss their respective products but shall not engage in the selling, furnishing, tendering, or serving of any nonintoxicating beer, nonintoxicating craft beer, wine, or liquor.

(i) A license issued under this section and the licensee are subject to all other provisions of this article and the rules and orders of the commissioner: *Provided*, That the commissioner may by rule or order allow certain waivers or exceptions with respect to those provisions, rules, or orders as the circumstances of each private fair and festival require, including without limitation, the right to revoke or suspend immediately any license issued under this section prior to any notice or hearing, notwithstanding §60-7-13a of this code: *Provided, however*, That under no circumstances may the provisions of §60-7-12 of this code be waived or an exception granted with respect thereto.

(j) During events authorized by this section, licensees may also sell promotional and other items relating to promoting their business and its products.

§60-7-8f. Private delivery license for a licensed private club restaurant, private manufacturer club, or a third party; requirements; limitations; third party license fee; private cocktail delivery permit; and requirements.

(a) A licensed private club restaurant or private manufacturer club licensed to sell liquor for on-premises consumption may apply for a private delivery license permitting the order, sale, and delivery of liquor and a nonalcoholic mixer or beverage in a sealed craft cocktail growler, when separately licensed for craft cocktail growler sales. The order, sale, and delivery of a sealed craft cocktail growler is permitted for off-premises consumption when completed by the licensee to a person purchasing the craft cocktail growler through a telephone, a mobile ordering application, or web-based software program, authorized by the licensee's license. There is no additional fee for a licensed private club restaurant or private manufacturer club to obtain a private delivery license. The order, sale, and delivery process shall meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for liquor sales or distribution, may apply for a private delivery license for the privilege of ordering and delivery of craft cocktail growlers, from a licensee with a craft cocktail growler license. The order and delivery of a sealed craft cocktail growler is permitted by a third party who obtains a license under this section when a private club restaurant or private manufacturer club sells to a person purchasing the sealed craft cocktail growler through telephone orders, a mobile ordering application, or a web-based software program. The private delivery license nonprorated, nonrefundable annual fee is $200 for each third party entity, with no limit on the number of drivers and vehicles.

(c) The private delivery license application shall comply with licensure requirements in this article and shall require any

information required by the commissioner; *Provided*, That the license application may not require a third party applicant to furnish information pursuant to §60-7-12 of this code.

(d) *Sale Requirements*. —

(1) The craft cocktail growler purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of the prepared food or a meal, and craft cocktail growler by the licensed private club restaurant, private manufacturer club, or third party private delivery licensee;

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this chapter for the sale of alcoholic liquors and as set forth in §11-16-1 *et seq.* of the code for nonintoxicating beer or nonintoxicating craft beer.

(3) 'Prepared food or a meal' for this article, means food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other manner freshly made and prepared, and does not include pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of multiple sealed craft cocktail growlers for each order of food or meal; *Provided*, That the entire delivery order may not contain any combination of craft cocktail growlers of more than 128 fluid ounces total; and

(5) A third party private delivery licensee shall not have a pecuniary interest in a private club restaurant or private manufacturer club licensee, as set forth in this article. A third party private delivery licensee may only charge a convenience fee for the delivery of any alcohol. The third party private delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol, but may continue to collect a percentage of the delivery order directly related to the prepared food or a meal. ~~The convenience fee charged by the third-party private delivery licensee to the purchasing person shall be no greater than five~~

~~dollars per delivery order where a craft cocktail growler is ordered by the purchasing person. For any third party licensee also licensed for wine growler delivery as set forth in §60-8-6c of the code, or nonintoxicating beer or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed five dollars.~~

(e) *Craft Cocktail Growler Delivery Requirements*. —

(1) Delivery persons employed for the delivery of a sealed craft cocktail growler shall be 21 years of age or older. The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. The licensee shall submit certification of the training to the commissioner;

(3) The third party delivery licensee or the private club restaurant or private manufacturing club shall hold a private cocktail delivery permit for each vehicle delivering a craft cocktail growler pursuant to subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure.

(4) Prepared food or a meal, and a sealed craft cocktail growler order delivered by a third party private delivery licensee, a private club restaurant, or private manufacturer club may occur in the county or contiguous counties where the licensed private club restaurant or private manufacturer club is located;

(5) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee may only deliver prepared food or a meal, and a sealed craft cocktail growler to addresses located in West Virginia. The licensed private club restaurant, private manufacturer club, or third party private

delivery licensee shall account for and pay all sales and municipal taxes;

(6) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee may not deliver prepared food or a meal, and a sealed craft cocktail growler to any other licensee;

(7) Deliveries of prepared food or a meal, and a sealed craft cocktail growler are only for personal use, and not for resale; and

(8) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall not deliver and leave the prepared food or a meal, and a sealed craft cocktail growler at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person may only permit the person who placed the order through a telephone order, a mobile ordering application, or web-based software to accept the prepared food or meal and a craft cocktail growler delivery, subject to age verification upon delivery with the delivery person's visual review and age verification ~~and, as application, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used ~~shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and~~ shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for verification, ~~and~~ shall include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall retain records for three years, and may not unreasonably withhold the records from the commissioner's inspection; and

(5) The third party private delivery licensee or the private club restaurant or private manufacturing club shall hold a valid private cocktail delivery permit under subsection (g) of this section for each vehicle used for delivery: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure.

(g) *Private Cocktail Delivery Permit. —*

(1) The licensed private club restaurant, private manufacturer club, or third party private delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and a sealed craft cocktail growler, subject to the requirements of this article.

(2) A third party private delivery licensee, a private club restaurant, or private manufacturer club licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private cocktail delivery permit shall meet the requirements of a transportation permit authorizing the permit holder to transport liquor subject to the requirements of this chapter.

(h) *Enforcement. —*

(1) The third party private delivery licensee, the private club restaurant, or the private manufacturers club licensed by this section are responsible for any violations committed by their employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a craft cocktail growler. The licensees in violation are subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

§60-7-17. Repealer.

[Repealed.]

ARTICLE 8. SALE OF WINES.

§60-8-6c. Winery and Farm Winery license to sell wine growlers and provide complimentary samples prior to purchasing a wine growler.

(a) *Legislative findings*. — The Legislature hereby finds that it is in the public interest to regulate, control, and support the brewing, manufacturing, distribution, sale, consumption, transportation, and storage of wine and its industry in this state to protect the public health, welfare, and safety of the citizens of this state, and promote hospitality and tourism. Therefore, this section authorizes a licensed winery or farm winery with its principal place of business and manufacture located in this state to have certain abilities to promote the sale of wine manufactured in this state for the benefit of the citizens of this state, the state's growing wine industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) *Sales of wine*. — A licensed winery or farm winery with its principal place of business and manufacture located in the State of West Virginia may, when licensed under this section, offer only wine manufactured by the licensed winery or farm winery for retail

sale to customers from the winery or farm winery's licensed premises for consumption off of the licensed premises only in the form of original container sealed wine kegs, wine bottles, or wine cans, or also a sealed wine growler for personal consumption, and not for resale. A licensed winery or farm winery may not sell, give, or furnish wine for consumption on the premises of the principal place of business and manufacture located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (c) of this section or unless separately licensed as a private wine restaurant or a private manufacturer club.

(c) *Complimentary samples*. — A licensed winery or farm winery with its principal place of business and manufacture located in the State of West Virginia may offer complimentary samples of wine as set forth in §60-4-3b of this code.

(d) *Retail sales*. — Every licensed winery or farm winery under this section shall comply with all the provisions of this article as applicable to wine retailers when conducting wine growler sales and is subject to all applicable requirements and penalties in this article.

(e) *Payment of taxes and fees*. — A winery or farm winery licensed under this section shall pay all taxes and fees required of licensed wine retailers, in addition to any other taxes and fees required, and shall meet applicable licensing provisions as required by this chapter and by rule of the commissioner.

(f) *Advertising*. — A winery or farm winery under this section may advertise a particular brand or brands of wine produced by the licensed winery or farm winery and the price of the wine subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance or target minors.

(g) *Wine Growler defined*. – For purposes of this section and section §60-8-6d of the code, 'wine growler' means a container or jug that is made of glass, ceramic, metal, or other material approved by the commissioner, that may be no larger than 128 fluid ounces in size and is capable of being securely sealed. The growler may be used by an authorized licensee for purposes of off-premises sales

only of wine for personal consumption, and not for resale. The wine served and sold in a sealed wine growler may include ice or water mixed with the wine to create a frozen alcoholic beverage. Any frozen alcoholic beverage machine used for filling wine growlers shall be sanitized daily and shall be under control and served by the licensee from the secure area. Notwithstanding any other provision of this code to the contrary, a securely sealed wine growler is not an open container under state and local law. A wine growler with a broken seal is an open container under state and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. For purpose of this article, a secure seal means using a tamper evident seal, such as: (1) A plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid of wine growler to form a seal that ~~must~~ shall be broken when the container is opened; or (2) A screw top cap or lid that breaks apart when the wine growler is opened.

(h) *Wine Growler requirements*. — A winery or farm winery licensed under this section shall prevent patrons from accessing the secure area where the winery or farm winery fills a wine growler and prevent patrons from filling a wine growler. A licensed winery or farm winery under this section shall sanitize, fill, securely seal, and label any wine growler prior to its sale. A licensed winery or farm winery under this section may refill a wine growler subject to the requirements of this section. A winery or farm winery shall visually inspect any wine growler before filling or refilling it. A winery or farm winery may not fill or refill any wine growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container.

(i) *Wine Growler labeling*. — A winery or farm winery licensed under this section selling wine growlers shall affix a conspicuous label on all sold and securely sealed wine growlers listing the name of the licensee selling the wine growler, the brand of the wine in the wine growler, the alcohol content by volume of the wine in the wine growler, and the date the wine growler was filled or refilled. All labeling on the wine growler shall be consistent with all federal labeling and warning requirements.

(j) *Wine Growler sanitation*. — A licensed winery or farm winery authorized under this section shall clean and sanitize all wine growlers it fills or refills in accordance with all state and county health requirements prior to its filling and sealing. In addition, the licensed winery or farm winery shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipelines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure to comply with this subsection may result in penalties under this article.

(k) *Fee*. — There is no additional fee for a licensed winery or farm winery authorized under this section to sell wine growlers, but the licensee shall meet all other requirements of this section.

(l) *Limitations on licensees*. — To be authorized under this section, a licensed winery or farm winery may not produce more than 10,000 gallons of wine per calendar year at the winery or farm winery's principal place of business and manufacture located in the State of West Virginia. A licensed winery or farm winery authorized under this section is subject to the applicable penalties under this article for violations of this section.

(m) *Rules*. — The commissioner, in consultation with the Bureau for Public Health, may propose legislative rules concerning sanitation for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

§60-8-6e. Private wine delivery license for a licensed Class A wine licensee or a third party; requirements; limitations; third party license fee; private retail transportation permit; and requirements.

(a) A Class A wine licensee who is licensed to sell wine for on-premises consumption may apply for a private wine delivery license permitting the order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for wine growler sales. The order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted for off-premises consumption when completed by the licensee or the

licensee's employees to a person purchasing the wine through a telephone, mobile ordering application, or web-based software program, authorized by the licensee's license. There is no additional fee for a Class A wine licensee to obtain a private wine delivery license. The order, sale, and delivery process must meet the requirements of this section. The order, sale, and delivery process is subject to the penalties of this article.

(b) A third party, not licensed for wine sales or distribution, may apply for a private wine delivery license for the privilege of ordering and delivery of wine in the original container of sealed bottles, or cans, or sealed wine growlers, from a licensee with a wine growler license. The order and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted by a third party licensee when sold by a Class A wine licensee to a person purchasing the wine through telephone orders, mobile ordering application, or web-based software program for off-premises consumption. The private wine delivery license non-prorated, nonrefundable annual fee is $200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private wine delivery license application shall comply with licensure requirements in this article and shall contain any information required by the commissioner.

(d) *Sale Requirements*. —

(1) The wine purchase shall accompany the purchase of prepared food or a meal and the completion of the sale may be accomplished by the delivery of prepared food or a meal, and sealed wine by the licensee or third-party licensee.

(2) Any purchasing person shall be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of wine.

(3) 'Prepared food or a meal' for this article, means food that has been cooked, grilled, fried, deep-fried, air-fried, smoked, boiled, broiled, twice baked, blanched, sautéed, or in any other

manner freshly made and prepared, and does not include pre-packaged food from the manufacturer.

(4) An order, sale, and delivery may consist of no more than 384 fluid ounces of wine per delivery order; and

(5) A third-party private wine delivery licensee may not have a pecuniary interest in a Class A wine licensee, as set forth in this article. A third-party private wine delivery licensee may only charge a convenience fee for the delivery of wine as provided in this section. The third-party private wine delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol but may collect a percentage of the delivery order directly related to prepared food or a meal. ~~The convenience fee charged by the third-party private wine delivery licensee to the purchasing person may be no greater than five dollars per delivery order where wine is ordered by the purchasing person. For any third-party private wine delivery licensee also licensed for nonintoxicating beer or nonintoxicating craft beer growler delivery as set forth in §11-16-6d of the code or craft cocktail growler delivery as set forth in §60-7-8f of the code, the total convenience fee of any order, sale, and delivery of a sealed growler, wine growler, or craft cocktail growler shall not exceed five dollars.~~

(e) *Private Wine Delivery Requirements*. —

(1) Delivery persons employed for the delivery of sealed wine shall be 21 years of age or older. The third-party private wine delivery licensee or a Class A wine licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The third-party private wine delivery licensee or the Class A wine licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication. The third-party private wine delivery licensee shall submit certification of the training to the commissioner;

(3) The third party private wine delivery licensee or Class A wine licensee shall hold a retail transportation permit for each

vehicle delivering sealed wine per subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) Delivery of food or a meal, and sealed wine orders by a third-party private wine delivery licensee or Class A wine licensee may occur in the county or contiguous counties where the wine licensee is located;

(5) The third-party private wine delivery licensee or Class A wine licensee may only deliver prepared food or a meal and sealed wine to addresses located in West Virginia. The third-party private wine delivery licensee or Class A wine licensee shall account for and pay all sales and municipal taxes;

(6) The third-party private wine delivery licensee or Class A wine licensee may not deliver prepared food or a meal, and sealed wine to any other wine licensees;

(7) Deliveries of food or a meal, and sealed wine are only for personal use, and not for resale; and

(8) The third-party private wine delivery licensee or Class A wine licensee shall not deliver and leave deliveries of prepared food or a meal, and sealed wine any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person shall only permit the person who placed the order through a telephone order, a mobile ordering application, or web-based software to accept the prepared food or meal, and wine delivery which is subject to age verification upon delivery with the delivery person's visual review and verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used ~~shall create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by~~

~~the delivery driver for verification, and~~ shall include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for verification, ~~and~~ shall include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner, and the third-party private wine delivery licensee and Class A wine licensee shall retain the records for inspection for three years. The third-party private wine delivery licensee or Class A wine licensee may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering wine shall be issued a private wine retail transportation permit per subsection (g) of this section.

(g) *Private Wine Retail Transportation Permit*. —

(1) A Class A wine licensee or a third-party private wine delivery licensee shall obtain and maintain a retail transportation permit for the delivery of prepared food and sealed wine.

(2) A Class A wine licensee or a third-party private wine delivery licensee shall provide vehicle and driver information, requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private wine retail transportation permit shall meet the requirements of a transportation permit authorizing the permit holder to transport wine subject to the requirements of this chapter.

(h) *Enforcement.* —

(1) The licensee or the third-party private wine delivery licensee are responsible for any violations committed by their

employees or independent contractors under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a wine bottle, wine can, or wine growler. A person who violates the provisions of this subdivision is subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

§60-8-6f. Private wine delivery license for a licensed Class B wine licensee or a third party; requirements; limitations; third party license fee; private retail transportation permit; and requirements.

(a) A Class B wine licensee who is licensed to sell wine for on-premises consumption may apply for a private wine delivery license permitting the order, sale, and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers, when separately licensed for wine growler sales. The order, sale, and delivery of wine in the original container of sealed bottles, cans, or sealed wine growlers is permitted for off-premises consumption when completed by the licensee or the licensee's employees to a person purchasing the wine through a telephone order, a mobile ordering application, or web-based software program, as authorized by the licensee's license. There is no additional fee for a Class B wine licensee to obtain a private wine delivery license. The order, sale, and delivery process shall meet the requirements of this section, and subject to the penalties of this article.

(b) A third party, not licensed for wine sales or distribution, may apply for a private wine delivery license for the privilege of the ordering and delivery of wine in the original container of sealed bottles, or cans, or sealed wine growlers, from a licensee with a wine growler license. The order and delivery of wine in the original container of sealed bottles or cans, or sealed wine growlers is permitted for off-premises consumption by a third party licensee when sold by a Class B wine licensee to a person purchasing the wine through telephone orders, mobile ordering application, or web-based software program. The private wine delivery license non-prorated, nonrefundable annual fee is $200 per third party entity, with no limit on the number of drivers and vehicles.

(c) The private wine delivery license application shall comply with licensure requirements in this article and shall contain any information required by the commissioner.

(d) *Sale Requirements*. —

(1) The wine purchase may accompany the purchase of food and the completion of the sale may be accomplished by the delivery of food and sealed wine by the licensee or third-party private wine delivery licensee.

(2) Any purchasing person must be 21 years of age or older, shall not be visibly or noticeably intoxicated at the time of delivery, and shall meet the requirements set forth in this article for the sale of wine.

(3) Food, for purposes of this section, means food that has been cooked, microwaved, or that is pre-packaged food from the manufacturer;

(4) An order, sale, or delivery consisting of food and any combination of sealed wine bottles, cans, or growlers shall not be in excess of 384 fluid ounces of wine; and

(5) A third-party private wine delivery licensee shall not have a pecuniary interest in a Class B wine licensee, as set forth in this article. A third-party private wine delivery licensee may only charge a convenience fee for the delivery of wine. The third-party

private wine delivery licensee may not collect a percentage of the delivery order for the delivery of alcohol but may collect a percentage of the delivery order directly related to food only. ~~The convenience fee charged by the third party private wine delivery licensee to the purchasing person shall be no greater than five dollars per delivery order where wine is ordered by the purchasing person. For any third party licensee also licensed for nonintoxicating beer or nonintoxicating craft beer delivery as set forth in §11-16-6f of the code, the total convenience fee of any order, sale, and delivery shall not exceed five dollars.~~

(e) *Private Wine Delivery Requirements*. —

(1) Delivery persons employed for the delivery of sealed wine shall be 21 years of age or older. The third-party private wine delivery licensee or a Class B wine licensee shall file each delivery person's name, driver's license, and vehicle information with the commissioner;

(2) The third-party private wine delivery licensee or Class B wine licensee shall train delivery persons on verifying legal identification and in identifying the signs of intoxication and certification. The third-party private wine delivery licensee or Class B wine licensee shall submit certification of the training to the commissioner;

(3) The third party delivery licensee or Class B wine licensee must hold a retail transportation permit for each vehicle delivering sealed wine as required by subsection (g) of this section: *Provided*, That a delivery driver may retain an electronic copy of his or her permit as proof of licensure;

(4) The third-party private wine delivery licensee or Class B wine licensee may only deliver food and sealed wine orders by a third-party private wine delivery licensee or Class B wine licensee in the county where the wine licensee is located;

(5) The third-party private wine delivery licensee or Class B wine licensee may only deliver food and sealed wine to addresses

located in West Virginia with all sales and municipal taxes accounted for and paid;

(6) A third-party private wine delivery licensee or Class B wine licensee may not deliver food and sealed wine to any other wine licensees;

(7) Deliveries of food and sealed wine are only for personal use, and not for resale; and

(8) A third-party private wine delivery licensee or Class B wine licensee shall not deliver and leave food and sealed wine at any address without verifying a person's age and identification as required by this section.

(f) *Telephone, mobile ordering application, or web-based software requirements*. —

(1) The delivery person shall only permit the person who placed the order through a telephone, a mobile ordering application, or web-based software to accept the food and wine delivery which is subject to age verification upon delivery with the delivery person's visual review and verification ~~and, as applicable, a stored scanned image of the purchasing person's legal identification~~;

(2) Any mobile ordering application or web-based software used shall ~~create a stored record and image of the purchasing person's legal identification and details of the sale, accessible by the delivery driver for verification, and shall~~ include the delivery driver's name and vehicle information and delivery shall be subject to legal identification verification;

(3) Any telephone ordering system shall maintain a log or record of the purchasing person's ~~legal~~ identification and details of the sale, accessible by the delivery driver for verification, ~~and~~ must include the delivery driver's name and vehicle information, and delivery shall be subject to legal identification verification;

(4) All records are subject to inspection by the commissioner. The third-party private wine delivery licensee or Class B wine

licensee shall retain the records for inspection for three years. The third-party private wine delivery licensee or Class B wine licensee may not unreasonably withhold the records from the commissioner's inspection; and

(5) Each vehicle delivering wine shall be issued a private wine retail transportation permit under subsection (g) of this section.

(g) *Private Wine Retail Transportation Permit*. —

(1) A Class B wine licensee or third party private wine delivery licensee shall obtain and maintain a retail transportation permit for the delivery of food and wine.

(2) A Class B wine licensee or third party private wine delivery licensee shall provide vehicle and driver information requested by the commissioner. Upon any change in vehicles or drivers, the licensee shall update the driver and vehicle information with the commissioner within 10 days of the change.

(3) In conjunction with §60-6-12 of this code, a private wine retail transportation permit shall meet the requirements of a transportation permit authorizing the permit holder to transport wine subject to the requirements of this chapter.

(h) *Enforcement*. —

(1) The licensee or third-party private wine delivery licensee are each responsible for any violations committed by their employees or agents under this article, and more than one violation may be issued for a single violation involving multiple licensees, employees, or independent contractors.

(2) Any license or permit granted by this section is subject to the penalties of probation, monetary fines, suspension, and revocation, as set forth in this article, for violations committed by the licensee, its employees, or independent contractors.

(3) It is a violation for any licensee, its employees, or independent contractors to break the seal of a wine bottle, wine can, or wine growler. A person who violates the provisions of this

subdivision is subject to the maximum penalties available in this article.

(4) For purposes of criminal enforcement of the provisions of this article, persons ordering, purchasing, and accepting delivery of orders are considered to be purchasers.

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 18 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 caterer, private club restaurant, private manufacturer club, private fair and festival, private resort hotel, private hotel, private golf club, private nine-hole golf course, private tennis club, private wedding venue or barn, private outdoor dining and private outdoor street dining, private multi-vendor fair and festival license, private farmers market, private professional sports stadium, and a private multi-sports complex licensed pursuant to §60-7-1 *et seq.* of this code and in compliance with §60-7-2(f)(~~11~~5), §60-7-2(g)(5), §60-7-2(h)(~~4~~9), ~~§60-7-2(i)(8), §60-7-2(j)(7),~~ §60-7-2(k)(~~8~~4), §60-7-2(l)(8), §60-7-2(m)(7), §60-7-2(n)(~~7~~8), §60-7-2(o)(8), §60-7-2(p)(~~8~~7), §60-7-2(q)(~~12~~8), §60-7-2(r)(8), §60-7-2(s)(~~9~~7), §60-7-2(t)(8), §60-7-2(u)(12), §60-7-12(v)(8), §60-7-2(w)(9), §60-7-8c(b)(14), §60-7-8d, and §60-8-32a, of this code; or (b) a private club with more than 1,000 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, by using a mandatory carding or identification program by which all members or guests being served or sold alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer are asked and required to provide their proper identification to verify their identity and further that they are of legal drinking age, 21 years of age or older, prior to each sale or service of alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer."

On the question of the adoption of the reformed amendment, the same was put and prevailed.

There being no further amendments, and having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 352)**, and there were, including pairs—yeas 64, nays 29, absent and not voting 7, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Westfall Nay: Worrell

Nays: Barnhart, Burkhammer, Conley, Fast, Ferrell, Griffith, Hanna, Honaker, D. Jeffries, Keaton, D. Kelly, J. Kelly, Kessinger, Kimble, Kimes, Longanacre, Mallow, Mandt, Mazzocchi, McGeehan, Pack, Pinson, Rohrbach, Rowan, Toney, Wamsley, B. Ward, G. Ward and Worrell.

Absent and Not Voting: Cooper, Espinosa, Hardy, Householder, Jennings, Martin and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker Pro Tempore declared the bill (H. B. 4848) passed.

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

H. B. 4848 - "A Bill to repeal §60-3A-19 of the Code of West Virginia, 1931, as amended; to repeal §60-4-10 of said code; to repeal §60-7-17 of said code; to amend and reenact §11-16-6d, §11-16-6f, and §11-16-8 of said code; to amend said code by adding thereto a new section, designated §60-1-3a; to amend and reenact §60-3-22 of said code; to amend and reenact §60-3A-3a, §60-3A-3b, §60-3A-8, §60-3A-17, and §60-3A-19 of said code; to amend and reenact §60-4-22 and §60-4-23 of said code; to amend and reenact §60-6-24 of said code; to amend and reenact §60-7-2, §60-7-6, §60-7-8a, and §60-7-8f, of said code; to amend said code by adding thereto a new section, designated §60-7-2a; to amend and reenact §60-8-6c, §60-8-6e, and §60-8-6f of said code; and to amend and reenact §61-8-27 of said code, all relating to nonintoxicating beer, wine, and liquor licenses and requirements; removing limitations on the convenience fee; removing provisions requiring a scanned stored image of a driver's license or other legal identification; providing for other legal identification verification requirements; providing for removal of the 300 foot requirement under certain conditions; clarifying that persons convicted of certain crimes under certain conditions are not eligible for a license when applying for a nonintoxicating beer, nonintoxicating craft beer, or liquor license; clarifying that licensees are not required to place alcoholic liquors in a bag after purchase; streamlining certain sale requirements; altering the requirements relating to prior approval for a sampling event; revising to require prior notice before a tasting event; removing provisions relating to a five dollar cap on the convenience fee to deliver drinks containing liquor, wine, or nonintoxicating beer or nonintoxicating craft beer; increasing the minimum markup from 110 percent to 115 percent; removing unconstitutional provisions relating to a moratorium on exotic entertainment; revising the blood alcohol chart; creating a license for a private bakery to produce confections with alcohol added and setting a license fee; creating a license for a private cigar shop to, where legally permissible, permit the sale of alcohol, food, and cigars for on-premises consumption, and setting a license fee; creating a license for a private college sports stadium for alcohol

sales in certain areas of Division I, II, or III sports stadiums, and setting a license fee; creating a license for a private food truck to conduct food and alcohol sales at various locations when permitted by a municipality, and setting a license fee; permitting private hotels and private resort hotels to apply for a private caterer license; authorizing private hotels and private resorts hotels to utilize in-room mini-bars for limited alcohol sales to adults 21 year of age and over; authorizing licensed entities to hold a secondary license for purposes of events, fairs, and festivals; authorizing wine growler sales where wine may be mixed with ice and water to produce a frozen alcoholic beverage for sale in sealed wine growlers, and additional requirements; and providing additional exceptions to the criminal penalty for the unlawful admission of children to a dance hall for certain private clubs with an age verification system."

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

H. B. 4849, Relating to bankruptcy; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 353)**, and there were—yeas 91, nays 1, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Burkhammer.

Absent and Not Voting: Cooper, Espinosa, Hardy, Householder, Jennings, Martin, Worrell and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker Pro Tempore declared the bill (H. B. 4849) passed.

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

Second Reading

Com. Sub. for S. B. 419, Establishing pilot project to evaluate impact of certain post-substance use disorder residential treatments; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted on page 3, line 57, by inserting a new paragraph (G) to read as follows:

"(G) A managed care organization does not have an obligation to provide any of the information specified in this section regarding a patient if that patient ceases to be an enrolled member of that particular MCO."

The bill was then ordered to third reading.

S. B. 499, Authorizing legislative rules for School Building Authority; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 638, Changing hearing and notice provisions for failing or distressed public utilities; on second reading, coming up in regular order, was read a second time.

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

S. B. 713, Removing statutory limit for Environmental Laboratory Certification Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

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

Com. Sub. for S. B. 520, Increasing financial penalties for ransomware attacks,

Com. Sub. for S. B. 523, Transferring oversight of Jobs Investment Trust Fund to WV Economic Development Authority,

Com. Sub. for S. B. 524, Placing duties and functions of certain boards and commissions under Department of Arts, Culture, and History,

Com. Sub. for S. B. 537, Providing additional firefighters and security guards for National Guard,

S. B. 542, Transferring Broadband Enhancement Council from Department of Commerce to Department of Economic Development,

S. B. 597, Relating to PSC underground facilities damage prevention and one-call system,

And,

Com. Sub. for S. B. 598, Establishing partnerships and aid for at-risk veterans to combat suicide.

There being no objection, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

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

Your Committee on Rules has had under consideration:

H. C. R. 5, James "Big Jim" Shaffer Memorial Bridge,

H. C. R. 39, Donald Ld. Stuckey Memorial Bridge,

H. C. R. 56, Roy Lee Shamblin Memorial Bridge,

S. C. R. 1, US Army PFC Billy Keith Ford Memorial Bridge,

S. C. R. 3, USMC CAPT Dempsey Stowers Memorial Bridge,

Com. Sub. for S. C. R. 5, US Marine Corps CPL James "Bud" Cox Memorial Bridge,

S. C. R. 9, Haynie Family Veterans Memorial Bridge,

And,

Com. Sub. for S. C. R. 28, US Army PVT Garland Lee Loudermilk Memorial Bridge,

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

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Espinosa, Householder, Jennings and Worrell.

Miscellaneous Business

During the X Order of Business, subsequent to the passage of the bill, Delegate Longanacre asked and obtained unanimous consent to be added as a cosponsor of Com. Sub. for H. B. 4020.

Delegate Evans announced that he voted "Yea" on Roll No. 337 and his vote did not register.

Delegate Miller announced that he voted "Yea" on Roll No. 350 and his vote did not register.

Delegate Crouse noted to the Clerk that she was absent when the vote was taken on Com. Sub. for H. B. 4001, and had she been present, she would have voted "Yea" thereon.

Delegate Howell noted to the Clerk that he was absent on February 28, 2022, when the votes were taken on Roll Nos. 258 through 275, and had he been present he would have voted "Yea" thereon.

Delegate Howell noted to the Clerk that he was absent on March 1, 2022, when the votes were taken on Roll Nos. 277

through 313, and had he been present he would have voted "Yea" thereon except for Roll No. 294, on which he would have voted "Nay".

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegates D. Kelly, Pethtel and Zatezalo regarding Com. Sub. for H. B. 4336

- Delegate Fast regarding H. B. 4848

- Delegate Graves regarding Com. Sub. for H. B. 4020

At 4:55 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, March 3, 2022.

Thursday, March 3, 2022

FIFTY-FIRST DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, March 2, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that Com. Sub. for H. B. 4753 on Third Reading, Special Calendar, had been transferred to the House Calendar.

Committee Reports

Delegate Criss, Vice Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 531, Increasing annual salaries of certain state employees,

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

Delegate Criss, Vice Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 515, Supplementing and amending appropriations of public moneys to Department of Administration, Public Defender Services,

S. B. 517, Expiring funds from unappropriated balance in State Excess Lottery Revenue Fund,

S. B. 525, Expiring funds from unappropriated balance in Lottery Net Profits,

S. B. 526, Supplementing and amending appropriations to Department of Commerce, Office of Secretary,

S. B. 527, Supplementing and amending appropriations to Department of Administration, Office of Technology,

S. B. 626, Supplementing, amending, and increasing existing items of appropriation from State Road Fund to DOT, DMV,

S. B. 627, Supplementing, amending, and increasing existing item of appropriation from State Road Fund to DOT, DOH,

S. B. 628, Supplementing and amending appropriations to Department of Commerce, DNR,

S. B. 629, Supplementing and amending appropriations to Department of Education, WV BOE, Vocational Division,

S. B. 630, Supplementing and amending appropriations to Higher Education Policy Commission, Administration – Control Account,

S. B. 636, Supplementing and amending appropriations to Department of Revenue, Office of Tax Appeals,

And,

S. B. 637, Supplementing and amending appropriations to Executive, Governor's Office – Civil Contingent Fund,

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

Delegate Jeffries, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 2nd day of March, 2022, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

H. B. 3303, Relating to clarifying the process of filling vacancies on ballots.

Delegate Jeffries, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 2nd day of March, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 221, Establishing occupational therapy compact,

And,

Com. Sub. for S. B. 452, Permitting civil remedies for unauthorized disclosure of intimate images.

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

Your Committee on Rules has had under consideration:

H. C. R. 31, Applying to the Congress of the United States to call a convention of states,

H. C. R. 95, Clemmer Brothers WWII Veterans Memorial Bridge,

H. C. R. 96, U. S. Air Force Captain Perry Thomas Rose Memorial Road,

Com. Sub. for S. C. R. 11, Dennis E. Davis Veterans Nursing Home,

Com. Sub. for S. C. R. 13, US Army PFC Joseph Stanley McKinney Memorial Bridge,

And,

S. C. R. 23, USMC CPL Guy Maywood Edwards Memorial Bridge,

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

Messages from the Executive

Communications from His Excellency, the Governor, advised that on March 2, 2022, he approved **Com. Sub. for H. B. 3220, H. B. 3303, H. B. 4060** and **Com. Sub. for H. B. 4114**.

Messages from the Senate

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

Com. Sub. for H. B. 4084, Relating to advanced recycling.

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

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

"**ARTICLE 15. SOLID WASTE MANAGEMENT ACT.**

§22-15-2. Definitions.

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

'Advanced recycling' means a manufacturing process for the conversion of post-use polymers and recovered feedstocks into

basic hydrocarbon raw materials, feedstocks, chemicals, and other products like waxes and lubricants through processes that include pyrolysis, gasification, depolymerization, catalytic cracking, hydrogenation, solvolysis, and other similar technologies. The recycled products produced at advanced recycling facilities include, but are not limited to, monomers, oligomers, plastics, plastics and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings, and other basic hydrocarbons. Advanced recycling shall not be considered solid waste management or solid waste disposal.

'Advanced recycling facility' means a facility that receives, stores, and converts post-use polymers and recovered feedstocks it receives using advanced recycling. An advanced recycling facility is a manufacturing facility subject to applicable department manufacturing regulations for air, water, and land use. Advanced recycling facilities shall not be considered solid waste facilities.

~~(1)~~ 'Agronomic rate' means the whole sewage sludge application rate, by dry weight, designed:

~~(A)~~ (1) To provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop, or vegetation on the land; and

~~(B)~~ (2) To minimize the amount of nitrogen in the sewage sludge that passes below the root zone of the crop or vegetation grown on the land to the groundwater.

~~(2)~~ 'Applicant' means the person applying for a commercial solid waste facility permit or similar renewal permit and any person related to such person by virtue of common ownership, common management, or family relationships as the director may specify, including the following: Spouses, parents, ~~and~~ children, and siblings.

~~(3)~~ 'Approved solid waste facility' means a solid waste facility or practice which has a valid permit under this article.

~~(4)~~ 'Back hauling' means the practice of using the same container to transport solid waste and to transport any substance or

material used as food by humans, animals raised for human consumption, or reusable item which may be refilled with any substance or material used as food by humans.

~~(5)~~ 'Bulking agent' means any material mixed and composted with sewage sludge.

'Catalytic cracking' is a manufacturing process through which post-use polymers are heated and melted in the absence of oxygen and then processed in the presence of a catalyst to produce valuable raw materials and intermediate and final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic hydrocarbons.

~~(6)~~ 'Class A facility' means a commercial solid waste facility which handles an aggregate of between ~~ten thousand~~ 10,000 and ~~thirty thousand~~ 30,000 tons of solid waste per month. Class A facility includes two or more Class B solid waste landfills owned or operated by the same person in the same county, if the aggregate ~~tons~~ tonnage of solid waste handled per month by such landfills exceeds ~~nine thousand nine hundred ninety-nine~~ 9,999 tons of solid waste per month.

~~(7)~~ 'Commercial recycler' means any person, corporation, or business entity whose operation involves the mechanical separation of materials for the purpose of reselling or recycling at least ~~seventy~~ 70 percent by weight of the materials coming into the commercial recycling facility.

~~(8)~~ 'Commercial solid waste facility' means any solid waste facility which accepts solid waste generated by sources other than the owner or operator of the facility and does not include an approved solid waste facility owned and operated by a person for the sole purpose of the disposal, processing, or composting of solid wastes created by that person or such person and other persons on a cost-sharing or nonprofit basis and does not include land upon which reused or recycled materials are legitimately applied for structural fill, road base, mine reclamation, and similar applications.

~~(9)~~ 'Compost' means a humus-like material resulting from aerobic, microbial, or thermophilic decomposition of organic materials.

~~(10)~~ 'Composting' means the aerobic, microbial, or thermophilic decomposition of natural constituents of solid waste to produce a stable, humus-like material.

~~(11)~~ 'Commercial composting facility' means any solid waste facility processing solid waste by composting, including sludge composting, organic waste or yard waste composting, but does not include a composting facility owned and operated by a person for the sole purpose of composting waste created by that person or such person and other persons on a cost-sharing or nonprofit basis and shall not include land upon which finished or matured compost is applied for use as a soil amendment or conditioner.

~~(12)~~ 'Cured compost' or 'finished compost' means compost which has a very low microbial or decomposition rate which will not reheat or cause odors when put into storage and that has been put through a separate aerated curing cycle stage of ~~thirty~~ 30 to ~~sixty~~ 60 days after an initial composting cycle or compost which meets all regulatory requirements after the initial composting cycle.

~~(13)~~ 'Department' means the Department of Environmental Protection.

'Depolymerization' means a manufacturing process where post-use polymers are broken into smaller molecules such as monomers and oligomers or raw, intermediate, or final products, plastics and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings, and other basic hydrocarbons.

~~(14)~~ 'Energy recovery incinerator' means any solid waste facility at which solid wastes are incinerated with the intention of using the resulting energy for the generation of steam, electricity, or any other use not specified herein.

'Gasification' means a manufacturing process through which recovered feedstocks are heated and converted into a fuel and gas mixture in an oxygen-deficient atmosphere and the mixture is converted into valuable raw materials and intermediate and final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic hydrocarbons that are returned to economic utility in the form of raw materials and products.

'Hydrogenation' is a manufacturing process through which hydrogen is used to remove impurities from post-use polymers or recovered feedstock to enable further processing into valuable raw materials and intermediate and final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic hydrocarbons.

~~(15)~~ 'Incineration technologies' means any technology that uses controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials, regardless of whether the purpose is processing, disposal, electric or steam generation, or any other method by which solid waste is incinerated.

~~(16)~~ 'Incinerator' means an enclosed device using controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials.

~~(17)~~ 'Landfill' means any solid waste facility used for the disposal of solid waste on or in the land for the purpose of permanent disposal. Such facility is situated, for purposes of this article, in the county where the majority of the spatial area of such facility is located.

~~(18)~~ 'Materials recovery facility' means any solid waste facility at which source-separated materials or materials recovered through a mixed waste processing facility are manually or mechanically shredded or separated for purposes of reuse and recycling, but does not include a composting facility.

~~(19)~~ 'Mature compost' means compost which has been produced in an aerobic, microbial, or thermophilic manner and does not exhibit phytotoxic effects.

~~(20)~~ 'Mixed solid waste' means solid waste from which materials sought to be reused or recycled have not been source-separated from general solid waste.

~~(21)~~ 'Mixed waste processing facility' means any solid waste facility at which materials are recovered from mixed solid waste through manual or mechanical means for purposes of reuse, recycling, or composting.

~~(22)~~ 'Municipal solid waste incineration' means the burning of any solid waste collected by any municipal or residential solid waste disposal company.

~~(23)~~ 'Open dump' means any solid waste disposal which does not have a permit under this article, or is in violation of state law, or where solid waste is disposed in a manner that does not protect the environment.

~~(24)~~ 'Person' or 'persons' means any industrial user, public or private corporation, institution, association, firm, or company organized or existing under the laws of this or any other state or country; State of West Virginia; governmental agency, including federal facilities; political subdivision; county commission; municipal corporation; industry; sanitary district; public service district; drainage district; soil conservation district; watershed improvement district; partnership; trust; estate; person or individual; group of persons or individuals acting individually or as a group; or any legal entity whatever.

'Post-use polymer' means a plastic to which all the following apply:

(1) The plastic is derived from any industrial, commercial, agricultural, or domestic activities;

(2) It is not mixed with solid waste or hazardous waste onsite or during processing at the advanced recycling facility;

(3) The plastic's use or intended use is as a feedstock for the manufacturing of plastic and chemical feedstocks, other basic hydrocarbons, raw materials, or other intermediate products or final products using advanced recycling;

(4) The plastic has been sorted from solid waste and other regulated waste but may contain residual amounts of solid waste such as organic material and incidental contaminants or impurities (e.g., paper labels and metal rings); and,

(5) The plastic is processed at an advanced recycling facility or held at such facility prior to processing.

~~(25)~~ 'Publicly owned treatment works' means any treatment works owned by the state or any political subdivision thereof, any municipality or any other public entity which processes raw domestic, industrial, or municipal sewage by any artificial or natural processes in order to remove or so alter constituents as to render the waste less offensive or dangerous to the public health, comfort, or property of any of the inhabitants of this state before the discharge of the plant effluent into any of the waters of this state, and which produces sewage sludge.

'Pyrolysis' means a manufacturing process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed and are then cooled, condensed, and converted into valuable raw materials and intermediate and final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic hydrocarbons, that are returned to economic utility in the form of raw materials or products.

'Recovered feedstock' means one or more of the following materials that has been processed so that it may be used as feedstock in an advanced recycling facility:

(1) Post-use polymers;

(2) Materials for which the United States Environmental Protection Agency has made a nonwaste determination pursuant to

40 C.F.R. 241.3(c), or has otherwise determined are feedstocks and not solid waste;

(3) Recovered feedstock does not include unprocessed municipal solid waste;

(4) Recovered feedstock is not mixed with solid waste or hazardous waste onsite or during processing at an advanced recycling facility.

~~(26)~~ 'Recycling facility' means any solid waste facility for the purpose of recycling at which neither land disposal nor biological, chemical, or thermal transformation of solid waste occurs: *Provided*, That mixed waste recovery facilities, sludge processing facilities, and composting facilities are not considered recycling facilities nor considered to be reusing or recycling solid waste within the meaning of this article, ~~article fifteen-a of this chapter and article four, chapter twenty-two-c of this code~~ §22-15A-1 *et seq.* and §22C-4-1 *et seq.* of this code.

~~(27)~~ 'Sewage sludge' means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage, scum, or solids removed in primary, secondary, or advanced wastewater treatment processes and a material derived from sewage sludge. 'Sewage sludge' does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator.

~~(28)~~ 'Sewage sludge processing facility' is a solid waste facility that processes sewage sludge for: (A) Land application; (B) incineration; or (C) disposal at an approved landfill. Such processes include, but are not limited to, composting, lime stabilization, thermophilic, microbial, and anaerobic digestion.

~~(29)~~ 'Secretary' means the Secretary of the Department of Environmental Protection or such other person to whom the ~~Secretary~~ secretary has delegated authority or duties pursuant to ~~article one of this chapter~~ §22-1-1 *et seq.* of this code.

~~(30)~~ 'Sludge' means any solid, semisolid, residue, or precipitate, separated from or created by a municipal, commercial, or industrial waste treatment plant, water supply treatment plant, ~~or~~ air pollution control facility, or any other such waste having similar origin.

~~(31)~~ 'Solid waste' means any garbage, paper, litter, refuse, cans, bottles, waste processed for the express purpose of incineration; sludge from a waste treatment plant; water supply treatment plant or air pollution control facility; and other discarded materials, including offensive or unsightly matter, solid, liquid, semisolid, or contained liquid or gaseous material resulting from industrial, commercial, mining, or community activities but does not include solid or dissolved material in sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources and have permits under ~~article five-a of this chapter~~ §22-5A-1 *et seq.* of this code, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, including any nuclear or byproduct material considered by federal standards to be below regulatory concern, or a hazardous waste either identified or listed under ~~article five-e of this chapter~~ §22-5E-1 *et seq.* of this code or refuse, slurry, overburden, or other wastes or material resulting from coal-fired electric power or steam generation, the exploration, development, production, storage, and recovery of coal, oil, and gas, and other mineral resources placed or disposed of at a facility which is regulated under ~~chapter twenty-two, twenty-two-a or twenty-two-b~~ Chapter 22, Chapter 22A, or Chapter 22B of this code, so long as placement or disposal is in conformance with a permit issued pursuant to such chapters, or post-use polymers and recovered feedstocks converted at an advanced recycling facility or held at such facility prior to conversion.

~~(32)~~ 'Solid waste disposal' means the practice of disposing of solid waste including placing, depositing, dumping, throwing, or causing any solid waste to be placed, deposited, dumped, or thrown.

~~(33)~~ 'Solid waste disposal shed' means the geographical area which the solid waste management board designates and files in

the state register pursuant to ~~section eight, article twenty-six, chapter sixteen~~ §16-26-8 of this code.

~~(34)~~ 'Solid waste facility' means any system, facility, land, contiguous land, improvements on the land, structures, or other appurtenances or methods used for processing, recycling, or disposing of solid waste, including landfills, transfer stations, materials recovery facilities, mixed waste processing facilities, sewage sludge processing facilities, commercial composting facilities, and other such facilities not herein specified, but not including land upon which sewage sludge is applied in accordance with ~~section twenty of this article~~ §22-15-20 of this code. Such facility shall be deemed to be situated, for purposes of this article, in the county where the majority of the spatial area of such facility is located: *Provided*, That a salvage yard, licensed and regulated pursuant to the terms of ~~article twenty-three, chapter seventeen~~ §17-23-1 *et seq.* of this code, is not a solid waste facility and an advanced recycling facility is not a solid waste facility.

~~(35)~~ 'Solid waste facility operator' means any person or persons possessing or exercising operational, managerial, or financial control over a commercial solid waste facility, whether or not such person holds a certificate of convenience and necessity or a permit for such facility.

'Solvolysis' means a manufacturing process through which post-use polymers are purified with the aid of solvents, while heated at low temperatures and/or pressurized to make useful products, allowing additives and contaminants to be separated. The products of solvolysis include monomers, intermediates, valuable chemicals, and raw materials. The process includes, but is not limited to, hydrolysis, aminolysis, ammonoloysis, methanolysis, and glycolysis.

~~(36)~~ 'Source-separated materials' means materials separated from general solid waste at the point of origin for the purpose of reuse and recycling but does not mean sewage sludge."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 354)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Brown, Espinosa, Hamrick, Householder, Jennings and Paynter.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4084) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4126, Authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules.

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

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

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

§64-5-1. Department of Health and Human Resources.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-1-4 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 December 14, 2021,

relating to the Department of Health and Human Resources (Methods and Standards for Chemical Tests for Intoxication, 64 CSR 10), is authorized.

(b) The legislative rule filed in the State Register on July 23, 2021, authorized under the authority of §16-5B-8 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 December 14, 2021, relating to the Department of Health and Human Resources (Hospital Licensure, 64 CSR 12), is authorized with the following amendment:

On page 22, subdivision 7.3.11, by striking the words "as prescribed by the attending practitioner" and inserting the words, "as recommended by a qualified dietician;".

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-35-4 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 September 24, 2021, relating to the Department of Health and Human Resources (Childhood Lead Screening, 64 CSR 42), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-1-4 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 December 14, 2021, relating to the Department of Health and Human Resources (Food Manufacturing Facilities, 64 CSR 43), is authorized.

(e) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-1-4 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 September 24, 2021, relating to the Department of Health and Human Resources

(Sewage Treatment and Collection System Design Standards, 64 CSR 47), is authorized.

(f) The legislative rule filed in the State Register on September 10, 2021, authorized under the authority of §16-4C-6 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 December 15, 2021, relating to the Department of Health and Human Resources (Emergency Medical Services, 64 CSR 48), is authorized.

(g) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §64-5-1 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 December 16, 2021, relating to the Department of Health and Human Resources (Clinical Laboratory Practitioner Licensure and Certification, 64 CSR 57), is authorized.

(h) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §60A-11-3 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 December 16, 2021, relating to the Department of Health and Human Resources (Clandestine Drug Laboratory Remediation, 64 CSR 92), is authorized with the amendments set forth below:

On page four, after the section caption, by adding the words "Licensed technicians shall:";

On page four, Subsection 5.3., b striking out the words "and ceiling" and inserting in lieu thereof the words "ceiling, and HVAC unit, vent, and return";

On page five, subdivision 7.1.2., by striking out the words "the residential property owner shall";

On page six, subdivision 7.1.4. by striking out all of subdivision 7.1.4. and inserting in lieu thereof a new subdivision 7.1.4. to read as follows:

"7.1.4. When analytical testing shows a level of contamination of greater than 1.0 ug/100 cm^2, contract within 60 days a licensed clandestine drug lab remediation contractor to either remediate or demolish the residential property in accordance with this rule.";

On page six, subsection 9.1., after the word "commissioner", by inserting the words "within 10 days of receipt of the initial analytical results"

On page seven, paragraph 9.2.1.i. after the semicolon, by striking out the word "and";

On page seven, paragraph 9.1.2.j. by striking out the words "must be";

On page seven, after paragraph 9.1.2.j., by adding the following paragraphs:

"9.1.2.k. A general listing of items to be removed from the residential property for disposal;

9.1.2.l. Items requiring special handling for disposal; and

9.1.2.m. Any obvious safety hazards."

And,

On page twelve, subdivision 12.8.6., by striking out the word "three" and inserting in lieu thereof the word "one".

(i) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-4E-4 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 September 24, 2021, relating to the Department of Health and Human Resources (Maternal Risk Screening, 64 CSR 97), is authorized.

(j) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §16-4F-5 of this code, relating to the Department of Health and Human Resources (Expedited Partner Therapy, 64 CSR 103), is authorized.

(k) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §16-5Y-13 of this code, relating to the Department of Health and Human Resources (Medication-Assisted Treatment - Opioid Treatment Programs, 69 CSR 11), is authorized.

(l) The legislative rule filed in the State Register on August 27, 2021, authorized under the authority of §16-64-7 of this code, relating to the Department of Health and Human Resources (Syringe Services Program Licensure, 69 CSR 17), is authorized.

§64-5-2. Health Care Authority.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §16-2D-4 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 20, 2021, relating to the Health Care Authority (Certificate of Need, 65 CSR 32), is authorized with the following amendment:

On page 4, by striking paragraph 2.1.j.9, in its entirety, and renumbering the remaining paragraphs.

§64-5-3. Department of Health and Human Resources and Insurance Commission.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §33-4A-8 of this code, modified by the Department of Health and Human Resources and Insurance Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 27, 2021, relating to the Department of Health and Human Resources and Insurance Commission (All Payer Claims Database - Data Submission Requirements, 114A CSR 01), is authorized with the amendments set forth below:

On page 3, subsection 2.20. by striking out the word "procedural" and inserting in lieu thereof the word "legislative";

And

On page 5, subsection 4.2. by striking out the word "procedural" and inserting in lieu thereof the word "legislative"

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §33-4A-4 of this code, relating to the Department of Health and Human Resources and Insurance Commission (All-Payer Claims Database Program's Privacy and Security Requirements, 114A CSR 02), is authorized."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 355)**, and there were—yeas 90, nays 4, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Fleischauer, Pushkin, Walker and Young.

Absent and Not Voting: Brown, Espinosa, Hamrick, Householder, Jennings and Paynter.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4126) passed.

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

On this question, the yeas and nays were taken **(Roll No. 356)**, and there were—yeas 88, nays 6, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Doyle, Evans, Fleischauer, Pushkin, Walker and Young.

Absent and Not Voting: Brown, Espinosa, Hamrick, Householder, Jennings and Paynter.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4126) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 4773, Adoption of the FCC customer service and technical standards and requiring certain cable operators to operate an in-state customer call center.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, with amendment, of a joint resolution of the House of Delegates as follows:

H. J. R. 102, Clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the joint resolution by the Senate:

By striking out everything after line 12 and inserting in lieu thereof the following:

"**ARTICLE XII. EDUCATION.**

§2. Supervision of free schools.

Subject to the provisions of this section, ~~The~~ the general supervision of the free schools of the State is ~~shall be~~ vested in the West Virginia Board of Education which shall perform the ~~such~~ duties ~~as may be~~ prescribed by law. Under its supervisory duties, the West Virginia Board of Education may promulgate rules or policies which shall be submitted to the Legislature for its review

and approval, amendment, or rejection, in whole or in part, in the manner prescribed by general law. The board shall consist of nine members to be appointed by the Governor, by and with the advice and consent of the Senate, for overlapping terms of nine years. ~~except that the original appointments shall be for terms of one, two, three, four, five, six, seven, eight, and nine years, respectively.~~ No more than five members of the board shall belong to the same political party, and in addition to the general qualifications otherwise required by the Constitution, the Legislature may require other specific qualifications for membership on the board. No member of the board may be removed from office by the Governor except for official misconduct, incompetence, neglect of duty, or gross immorality, and then only in the manner prescribed by law for the removal by the Governor of state elective officers.

The West Virginia Board of Education shall, in the manner prescribed by law, select the State Superintendent of Free Schools who shall serve at its will and pleasure. He or she shall be the chief school officer of the state and shall ~~have such powers and shall~~ perform the ~~such~~ duties ~~as may be~~ prescribed by law.

The State Superintendent of Free Schools shall be a member of the Board of Public Works as provided by subsection B, section fifty-one, article VI of this Constitution.

Resolved further, That in accordance with the provisions of §3-11-1 *et seq.* of the Code of West Virginia, 1931, as amended, the amendment is hereby numbered 'Amendment No. 1' and designated as the 'Education Accountability Amendment' and the purpose of the proposed amendment is summarized as follows: "The purpose of this amendment is to clarify that the rules and policies promulgated by the State Board of Education, are subject to legislative review, approval, amendment, or rejection."

The resolution, as amended by the Senate, was then put upon its adoption.

On the adoption of the resolution, the yeas and nays were taken **(Roll No. 357)**, and there were—yeas 74, nays 20, absent and not

voting 6, with the yeas, nays, and absent and not voting being as follows:

Yeas: Anderson, Barnhart, Barrett, Bates, Booth, Bridges, Burkhammer, Capito, Clark, Conley, Cooper, Criss, Crouse, Dean, Doyle, Ellington, Fast, Ferrell, Forsht, Foster, Gearheart, Graves, Hanna, Hardy, Haynes, Holstein, Honaker, Horst, Hott, Howell, D. Jeffries, J. Jeffries, Keaton, D. Kelly, J. Kelly, Kessinger, Kimble, Kimes, Linville, Longanacre, Mallow, Mandt, Martin, Maynard, Maynor, Mazzocchi, McGeehan, Miller, Nestor, Pack, Phillips, Pinson, Pritt, Queen, Reed, Reynolds, Riley, Rohrbach, Rowan, Smith, Statler, Steele, Storch, Summers, Sypolt, Toney, Tully, Wamsley, B. Ward, G. Ward, Westfall, Worrell, Zatezalo and Hanshaw (Mr. Speaker).

Nays: Barach, Boggs, Diserio, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Brown, Espinosa, Hamrick, Householder, Jennings and Paynter.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the resolution was adopted, as follows:

H. J. R. 102 – "Proposing an amendment to the Constitution of the State of West Virginia, amending section 2, article XII thereof, relating to education and the supervision of free schools; clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection; numbering and designating such proposed amendment; 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 the next general election to be held in the

year 2022, which proposed amendment is that section 2, article XII thereof, be amended and reenacted to read as follows:

ARTICLE XII. EDUCATION.

§2. Supervision of free schools.

Subject to the provisions of this section, the general supervision of the free schools of the State is vested in the West Virginia Board of Education which shall perform the duties prescribed by law. Under its supervisory duties, the West Virginia Board of Education may promulgate rules or policies which shall be submitted to the Legislature for its review and approval, amendment, or rejection, in whole or in part, in the manner prescribed by general law. The board shall consist of nine members to be appointed by the Governor, by and with the advice and consent of the Senate, for overlapping terms of nine years. No more than five members of the board shall belong to the same political party, and in addition to the general qualifications otherwise required by the Constitution, the Legislature may require other specific qualifications for membership on the board. No member of the board may be removed from office by the Governor except for official misconduct, incompetence, neglect of duty, or gross immorality, and then only in the manner prescribed by law for the removal by the Governor of state elective officers.

The West Virginia Board of Education shall, in the manner prescribed by law, select the State Superintendent of Free Schools who shall serve at its will and pleasure. He or she shall be the chief school officer of the state and shall perform the duties prescribed by law.

The State Superintendent of Free Schools shall be a member of the Board of Public Works as provided by subsection B, section fifty-one, article VI of this Constitution.

Resolved further, That in accordance with the provisions of §3-11-1 *et seq.* of the Code of West Virginia, 1931, as amended, the amendment is hereby numbered "Amendment No. 1" and designated as the "Education Accountability Amendment" and the

purpose of the proposed amendment is summarized as follows: "The purpose of this amendment is to clarify that the rules and policies promulgated by the State Board of Education, are subject to legislative review, approval, amendment, or rejection."

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

A message from the Senate, by

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

Com. Sub. for S. B. 29 - "A Bill to amend and reenact §50-3-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §59-1-10 of said code, all relating to the Courthouse Facilities Improvement Authority generally; imposing a $10 processing fee for criminal bail bonds, other than personal recognizance bonds, which fee is to be deposited in the Courthouse Facilities Improvement Fund; imposing a $25 fee for the processing of bail pieces, the revenue from which is deposited in the Courthouse Facilities Improvement Fund; and increasing the fee for a deed of conveyance with the increase dedicated to the Courthouse Facilities Improvement Fund"; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 205 - "A Bill to amend and reenact §5-16-4 of the Code of West Virginia, 1931, as amended, relating to the expansion of membership of the Public Employees Insurance Agency Finance Board; increasing number of appointed members on board; designating interests to be represented by additional appointed members of board; and making technical changes throughout"; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 266 - "A Bill to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to adding definition of 'ammunition' for purposes of the live fire requirement for obtaining a license to carry a concealed deadly weapon; and clarifying that marked rounds and training ammunition may be used in the required training course"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 434 - "A Bill to amend and reenact §8-28-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-29-1, §8-29-3, §8-29-8, §8-29-9, §8-29-12, §8-29-17, and §8-29-20 of said code; to amend said code by adding thereto a new section, designated §8-29-8a; and to amend and reenact §8-29B-2, §8-29B-3, and §8-29B-5 of said code, relating generally to airport authorities and operations; increasing the criminal fine for vehicular and pedestrian traffic near airports; authorizing airport authorities to establish and operate international and ancillary airports; defining terms; clarifying that certain airports may be established near research or business parks; expanding the powers and authority of airport authorities related to acquisition and use of property; establishing a procedure for the disposition of derelict or abandoned aircraft; providing airport authorities with a lien on a derelict or abandoned aircraft; providing for sale and disposal of abandoned and derelict aircraft and purchaser's ownership rights; authorizing airport authorities to promulgate rules to control vehicular and pedestrian traffic; increasing criminal fines for violations of certain airport rules and regulations; providing airport authorities with the right of immediate entry following eminent domain; and expanding areas over which airport police have

jurisdiction"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 468 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2Q-1, §16-2Q-2, §16-2Q-3, §16-2Q-4, §16-2Q-5, §16-2Q-6, §16-2Q-7, §16-2Q-8, §16-2Q-9, §16-2Q-10, and §16-2Q-11, all relating to creating the Unborn Child with Down Syndrome Protection and Education Act; providing a short title; defining terms; requiring health care practitioner to provide certain information to expectant or new parents; requiring Department of Health and Human Resources to make certain information available to health care practitioners on website; prohibiting abortion before confirming and documenting that abortion is not sought because of a disability except in medical emergency or severe fetal condition; prohibiting abortion because of disability except in medical emergency or severe fetal condition; requiring physician who performs or induces abortion to report certain anonymous information to commissioner; requiring commissioner to create forms and providing for applicability of reporting requirements; providing for professional sanctions and civil penalties or fines; authorizing Attorney General, West Virginia Board of Medicine, and West Virginia Board of Osteopathic Medicine to bring action; clarifying effect of article with respect to right to abortion, generally accepted medical standards, and currently unlawful abortions; providing for severability; and providing effective date"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 498 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-9b; and to amend said code by adding thereto a new section, designated §18B-14-4, all relating to prohibiting a school district, a public charter school, the West Virginia Board of Education, the West Virginia Department of Education, or any employee of the aforementioned entities from providing instruction in, requiring instruction in, making part of a course, or requiring a statement or affirmation by an employee of certain specified concepts; prohibiting a state institution of higher education or any of its employees from requiring a student or employee to take instruction in, or include in the curriculum of any required course, or require a statement or affirmation by any student or employee that certain specified concepts are factual and accurate or must be held as a belief of the student or employee; defining terms; recognizing that state institutions of higher education prohibit discrimination and have an obligation to protect the right to free speech; limiting prohibitions; establishing public elementary and secondary school complaint and appeal procedures for alleged violations and complaint reporting procedures; requiring each campus to report to the Higher Education Policy Commission or the Council for Community and Technical College Education a description of any violations; and requiring certain information on the complaints filed and reported violations to be reported to the Legislative Oversight Commission on Education Accountability."

Delegate Fluharty moved to reject the Senate Message on Com. Sub. for S. B. 498.

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

Having been ordered, the yeas and nays were taken **(Roll No. 358)**, and there were—yeas 21, nays 73, absent and not voting 6, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Boggs, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Brown, Espinosa, Hamrick, Householder, Jennings and Paynter.

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

The message was then received and the Speaker referred the bill to the Committee on Education then the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 518 - "A Bill to amend and reenact §30-7-6 of the Code of West Virginia, 1931, as amended, relating to allowing eligible professional nurses and advance practice registered nurses, or the equivalent, to practice in West Virginia; removing expiration date of temporary permit; and providing that temporary permit is valid until the board approves or denies the endorsement request"; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

Com. Sub. for S. B. 530 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-6b; and to amend and reenact §17-27-3, §17-27-4, §17-27-5, §17-27-7, §17-27-8, §17-27-9, §17-27-11, §17-27-13, §17-27-14, §17-27-15, and §17-27-16 of said code, all relating to encouraging public-private partnerships related to transportation facilities; providing coal severance tax escrow fund for the state portion of coal severance taxes paid on a public-private transportation facility; authorizing the Division of Highways to repay collected tax in escrow to private entities; cleaning up antiquated language; clarifying the roles of the division, public entities, and developers; simplifying the public-private partnership

review process; clarifying that Commissioner of the Division of Highways may approve or modify the division's rankings, authorize negotiations and entry into comprehensive agreement with the highest-ranked developer, or reject all proposals; providing that division is not obligated to accept, consider, or review unsolicited conceptual proposals, but may choose to do so; providing that no obligation or liability attaches to either party if they are unable to reach an agreement; providing that the division may negotiate a comprehensive agreement with the next highest-ranked developer if agreement cannot be reached with highest-ranked developer; clarifying the extent to which the division may utilize condemnation if it is found the project serves a public purpose or the developer is in material default; and exempting public-private partnership agreements from statutory government construction contract requirements"; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 552 - "A Bill to repeal §11A-2-18 of the Code of West Virginia, 1931, as amended; to repeal §11A-3-5, §11A-3-5a, §11A-3-5b, §11A-3-6, §11A-3-7, §11A-3-14, §11A-3-15, §11A-3-16, §11A-3-17, §11A-3-18, §11A-3-19, §11A-3-20, §11A-3-21, §11A-3-22, §11A-3-23, §11A-3-24, §11A-3-25, §11A-3-26, §11A-3-27, §11A-3-28, §11A-3-29, §11A-3-30, and §11A-3-31 of said code; to amend and reenact §11A-1-8 of said code; to amend and reenact §11A-2-14 of said code; to amend and reenact §11A-3-1, §11A-3-2, §11A-3-4, §11A-3-8, §11A-3-9, §11A-3-10, §11A-3-11, §11A-3-12, §11A-3-13, §11A-3-32, §11A-3-39 §11A-3-42, §11A-3-44, §11A-3-45, §11A-3-46, §11A-3-48, §11A-3-50, §11A-3-52, §11A-3-53, §11A-3-54, §11A-3-55, §11A-3-56, §11A-3-66, and §11A-3-69 of said code; to amend and reenact §11A-4-3 and §11A-4-4 of said code; to amend and reenact §16-18-3 of said code; to amend said code by adding thereto a new section, designated §16-18-30; to amend and reenact §22-15A-30 of said code; to amend and reenact §31-18E-9 of said code; and to

amend and reenact §31-21-11 of said code, all relating to the process for the collection of delinquent real estate taxes and sales of tax liens and property; modifying the method by which notice is provided regarding the payment of property taxes; requiring a sheriff to accept credit cards as a form of payment for property taxes; allowing a sheriff to offer discounts on tax liability to taxpayers that pay with a credit card; modifying the deadline by which a sheriff must present delinquent lists to its county commission; modifying the deadline that a county commission certifies a delinquent list to the auditor; providing that a sheriff provide a redemption receipt if property is redeemed prior to certification to the auditor; directing a portion of the redemption fee to the Courthouse Facilities Improvement Fund; modifying the policy related to the sale of tax liens; modifying the process by which a sheriff provides its second notice of delinquent real estate; modifying the timing and payment of redemption for delinquent properties prior to certification to the auditor; modifying dates for auditor to certify list of lands to be sold; providing any property not redeemed to the sheriff is to be certified to the auditor; providing that the sheriff prepare a list of all the tax liens on delinquent real estate redeemed prior to certification or certified to the auditor; providing that the sheriff account for the proceeds from redemptions prior to certification; providing a sheriff may modify its redemption and certification list within 30 days after the publication of such list; providing for the publication of such list; requiring sheriffs keep separate accounts for redemption moneys; identifying lands subject to sale by the deputy commissioner; relating to the obligation that the auditor certify and deliver a list of lands subject to sale by the deputy commissioner; addressing annual auctions held by the deputy commissioner and the publication of notice of public auctions held by the deputy commissioner; modifying timing of annual auction; relating the requirements that a purchaser must satisfy before he or she can secure a deed; modifying timing of purchaser obligation to secure deed; modifying refund to purchaser for property determined to be nonexistent; relating to the notice to redeem provided to a person entitled to redeem delinquent property; modifying fees for redemption; directing portion of fees for specific purpose; providing for certain delinquent taxpayers to redeem in installment

payments; modifying the right to set aside a tax deed improperly obtained or a tax deed obtained without sufficient notice; clarifying procedure for right to set aside deed; modifying definition of blighted property; modifying the Reclamation of Abandoned and Dilapidated Properties Program; relating to the right of certain entities to purchase delinquent properties; modifying compensation due deputy commissioner; and modifying certain obligations of the West Virginia Land Stewardship Corporation land bank program; allowing authorized urban renewal authority to acquire interest in tax-delinquent property; requiring Auditor to provide list of certain unsold real estate to urban renewal authority; authorizing urban renewal authority to purchase tax lien and pay taxes, interest, and charges due; providing authorized urban renewal authority with right of first refusal with respect to certain tax-delinquent property meeting certain criteria; requiring urban renewal authority to satisfy certain requirements; requiring sheriff to compile list of properties; authorizing urban renewal authority to purchase qualifying tax-delinquent property at certain amount before property place for public auction; requiring written notice to adjacent property owners by urban renewal authority; providing for period for adjacent property owners to express interest in purchasing property; clarifying that urban renewal authority may refuse to sell to certain delinquent parties; providing sunset for certain provisions relating to acquisition of tax-delinquent property; and requiring urban renewal authority which purchases tax-delinquent property to submit report"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2023, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 574 - "A Bill to amend and reenact §5-16-20 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto by adding a new section, designated §5-16-30, relating to the West Virginia Public Employees Insurance Act; reimbursement of hospital inpatient rates by the

plan; and naming of funds within the Public Employees Insurance Agency"; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 606 - "A Bill to amend and reenact §30-3-14 of the Code of West Virginia, 1931, as amended, relating to reporting requirements under the West Virginia Medical Practice Act; imposing a duty on persons licensed or authorized by the West Virginia Board of Medicine to report certain incidents to the Board; providing reporting deadlines; providing failure to report constitutes unprofessional conduct and grounds for disciplinary action; providing exception to reporting requirement for certain physicians; providing for immunity from civil liability for reports in good-faith and without fraud or malice; providing reports made in bad-faith, fraudulently, or maliciously constitute unprofessional conduct and grounds for disciplinary action; modifying grounds for denial of application and discipline; and providing rule-making authority"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 645 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-20A-1, §18-20A-2, §18-20A-3, §18-20A-4, §18-20A-5, §18-20A-6, §18-20A-7, §18-20A-8, §18-20A-9, and §18-20A-10, all relating to regulating schools for students with disabilities; defining terms; limiting application of new article; requiring State Board of Education rules for the management and operation of schools for students with disabilities; prohibiting the opening, operating, or conducting of any school for students with disabilities without a license to operate the school issued by the State Superintendent of Schools; allowing the state superintendent or his or her authorized agents to make unannounced inspections

of each school for students with disabilities; requiring application for a license to be filed with the state superintendent; requiring each school to submit and maintain a guaranty instrument payable to the State of West Virginia and conditioned to protect the contractual rights of students and other contracting parties; requiring each school to acquire appropriate insurance; providing that neither the state, state board, or state superintendent shall incur any liability from the actions or inactions of a licensed school or any of its employees; allowing a school for students with disabilities to offer education programs serving only the disability categories specifically indicated on its license; allowing state superintendent to establish fees and the methods for collecting such fees for schools as he or she deems necessary to carry out the provisions of the new article; allowing the state superintendent to refuse to issue or renew a license or allowing the state superintendent to revoke or suspend the license of any school for a violation of any provision of this new article or any rule of the state board promulgated pursuant thereto; providing that any person who opens, operates, or conducts any school for students with disabilities without a license is guilty of a misdemeanor and subject to fine and confinement; and requiring the state superintendent to maintain a list of schools for students with disabilities holding valid licenses that must be available to the public"; which was referred to the Committee on Education.

A message from the Senate, by

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

Com. Sub. for S. B. 649 - "A Bill to amend of the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-1r, relating to requiring certain voice-over internet protocol service providers delivering service in West Virginia or obtaining West Virginia area codes telephone numbers to register with the Public Service Commission; providing timelines to register; providing for a registration form; requiring voice-over internet protocol providers to submit certain information to the Public Service Commission; requiring voice-

over internet protocol providers to keep information current; providing definitions; making requirements applicable to certain voice-over internet service providers after effective date of section; and limiting Public Service Commission jurisdiction to certain voice-over internet protocol service providers"; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 653 - "A Bill to repeal §18B-2A-7a of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-1-2 of said code; to amend and reenact §18B-1B-6 of said code; to amend and reenact §18B-2A-1 of said code; to amend and reenact §18B-3C-8 and §18B-3C-13 of said code, and to amend said code by adding thereto a new section, designated §18B-3C-13a, all relating to public higher education governance; making Pierpont Community and Technical College a fully integrated division of Fairmont State University known as the Pierpont College of Community and Technical Education on July 1, 2023; increasing the number of members of the Fairmont State University Board of Governors to 15 persons; requiring the appointment by the Governor of at least one member on the Fairmont State University Board of Governors who has knowledge and practical experience in community and technical education; providing for two faculty members on the Fairmont State University Board of Governors at least one of which shall be from the faculty of the Pierpont College of Community and Technical Education selected by the faculty senate; providing that the administrative head of the Pierpont College of Community and Technical Education shall be a dean appointed by the President of Fairmont State University; requiring Fairmont State University to adhere to all provisions set forth in code and the rules of the Community and Technical College Council in the delivery of community and technical college education and programs; prohibiting Fairmont State University from discontinuing the aviation maintenance technology program until three years after providing notice;

providing that the Fairmont State University Pierpont College of Community and Technical Education shall not maintain independent accreditation status; providing for a transition period to achieve full accreditation by the Higher Learning Commission; authorizing Fairmont State University to begin the change of control, structure, or organization process with the Higher Learning Commission on or after July 1, 2022; providing for the chairman of the Fairmont State University Board of Governors to appoint an advisory board to provide guidance to the board of governors in fulfilling the mission of the Pierpont College of Community and Technical Education; providing that the members of the advisory board shall elect a chairperson on or after July 1, 2023, who shall be an ex-officio, voting member of the Fairmont State University Board of Governors; providing that the operating budget of Pierpont Community and Technical College is integrated under the authority and jurisdiction of the Fairmont State University Board of Governors; transferring all financial assets and liabilities from the authority of Pierpont Community and Technical College Board of Governors to the authority of the Fairmont State University Board of Governors; providing that all revenue and refunding revenue bonds, the debt service thereon and the other obligations under the resolutions adopted and any trust agreements entered in connection therewith, and any other capital debt service payment formerly the responsibility of Pierpont Community and Technical College continue in existence and are the responsibility of the Board of Governors of Fairmont State University; transferring titles to all real property, facilities, and equipment of, as well as each valid agreement undertaken by Pierpont Community and Technical College to the Fairmont State University Board of Governors; vesting title of all property purchased for the use of Pierpont Community and Technical College in the Fairmont State University Board of Governors; making faculty, classified employees, and nonclassified employees of Pierpont Community and Technical College employees of Fairmont State University; requiring Fairmont State University to develop an articulation agreement of course credit transfer of two-year academic programs to four-year academic programs; requiring Fairmont State University to continue participation in the Advanced Career Education Programs and the West Virginia Invests Grant Program;

providing that Pierpont College of Community and Technical Education remains under the jurisdiction of the Community and Technical College Council; requiring reports to the Council for Community and Technical College Education and the Legislative Oversight Commission on Education Accountability; requiring the Legislature to continue to appropriate money directly to Pierpont Community and Technical college for the 2023 fiscal year; providing for transition team oversight with a sunset date; updating certain state institution of higher education names; repealing outdated language; and deleting obsolete language"; which was referred to the Committee on Education.

A message from the Senate, by

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

Com. Sub. for S. B. 655 - "A Bill to amend and reenact §30-29-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §30-43-1, §30-43-2, and §30-43-3, all relating to tactical medical professionals; defining terms; authorizing creation of training and certification requirements; authorizing tactical medical professional to carry firearms; and protecting from civil or criminal liability"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 659 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-16-5a; to amend and reenact §11-16-8 of said code; to amend said code by adding thereto a new section, designated §60-1-3a; to amend and reenact §60-3A-17 of said code; to amend and reenact §60-6-24 of said code; to amend and reenact §60-7-2 and §60-7-6 of said code; to amend and reenact §60-8-6c of said code; and to amend and reenact §61-8-27 of said code, all relating to nonintoxicating beer, wine, and liquor licenses and

requirements; providing for modification of the 300-foot requirement to 200 feet; clarifying that licensees are not required to place nonintoxicating beer, nonintoxicating craft beer, and alcoholic liquors in a bag after purchase; revising the blood alcohol chart; increasing the minimum mark-up to 112.5 percent for sales to the general public and to 115 percent to licensees; creating a license for a private bakery to produce confections with alcohol added and setting a license fee; creating a license for a private cigar shop to, where legally permissible, permit the sale of alcohol, food, and cigars for on-premises consumption, and setting a license fee; creating a license for a private college sports stadium for alcohol sales in certain areas of Division I, II, or III sports stadiums, and setting a license fee; creating a license for a private food truck to conduct food and alcohol sales at various locations when permitted by a municipality, and setting a license fee; permitting private hotels and private resort hotels to apply for a private caterer license; authorizing private hotels and private resort hotels to utilize in-room mini-bars for limited alcohol sales to adults 21 year of age and over; authorizing wine growler sales where wine may be mixed with ice and water to produce a frozen alcoholic beverage for sale in sealed wine growlers, and additional requirements; and providing additional exceptions to the criminal penalty for the unlawful admission of children to a dance hall for certain private clubs with an age verification system"; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 668 - "A Bill to amend and reenact §62-12-2 and §62-12-9 of the Code of West Virginia, 1931, as amended, all relating generally to judicial treatment of sex offenses; requiring persons convicted of certain offenses to undergo psychological or psychiatric testing and have a treatment plan to be eligible for probation; and expanding the list of offenses for which a defendant has been convicted which preclude the defendant from residing with minor children or having any contact

with the victims"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 671 - "A Bill to amend and reenact §17A-6F-1, §17A-6F-2, §17A-6F-3, §17A-6F-5, §17A-6F-7, and §17A-6F-13 of the Code of West Virginia, 1931, as amended,` all relating to the regulation of peer-to-peer car sharing"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 680 - "A Bill to amend and reenact §5H-1-2 and §5H-1-3 of the Code of West Virginia, 1931, as amended, all relating to adding Division of Corrections and Rehabilitation employees working at institutions managed by the commissioner to the WV Emergency Responders Survivor Benefits Act; defining the qualifying acts for eligibility for payment of survivor benefits for Division of Corrections and Rehabilitation personnel to include, but not be limited to, training functions, administrative meetings, corrections or parole incidents or activities, interactions with inmates, former inmates, inmates or former inmates' family or associates, parolees, former parolees, former parolees' family or associates, and travel to or from any of these activities; and creating a retroactive effective date of March 14, 2020"; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 687 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-28, relating to meetings among county boards of education; and establishing procedures for potential consolidation of school districts"; which was referred to the Committee on Education.

A message from the Senate, by

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

S. B. 703 - "A Bill to amend and reenact §60A-2-204; 60A-2-206; 60A-2-210, and 60A-2-212 of the Code of West Virginia, 1931, as amended, all relating to controlled substances, adding the following to the schedule I substance list: N-Methylnorfentanyl(N-(1-Methyl-4-piperidinyl)-N-phenyl-propanamide, monohydrochloride); Norfentanyl (N-Phenyl-N-4-piperidinyl-propanamide); 3-Hydoxy-phencyclidine (other name hydroxy PCP); Marijuana (Cannabis, sp.); FDU-PB-22 (1-Naphthyl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate); FUB-PB-22 (Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate); 5-Fluoro-MN-24 (1-(5-Fluoropentyl)-N-(naphthalen-1-yl)-1H-indole-3-carboxamide); MN-24 (N-(naphthalen-1-yl)-1-pentyl-1H-indole-3-carboxamide); SDB-005 (Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate); SDB-006 (1-Pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide); Methyl-Ethylaminopentiophenone; FUB-AMB (Methyl(1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate); 5-Fluoro-SDB-005 Indole (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate); 5F-AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3- carboxamide); MMB-CHMICA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoat); MN-24 (N-(naphthalen-1-yl)-1-pentyl-1H-indole-3-carboxamide); SDB-005 (Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate); SDB-006 (1-Pentyl-N-(phenylmethyl)-1H-indole-3-carboxamide); Ethcathinone (2-(ethylamino)-1-phenyl-1-propanone, monohydrochloride); Methyl-Ethylaminopentiophenone; FUB-AMB (Methyl(1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate); 5-Fluoro-

SDB-005 Indole (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate);5F-AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3- carboxamide); MMB-CHMICA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoat); Bromazolam (8-bromo-1-methyl-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine); Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4 H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine); Cloniprazepam (5-(2-chlorophenyl)-1-(cyclopropylmethyl)-1,3-dihydro-7-nitro-2H-1,4-benzodiazepin-2-one); Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6H-thieno[3,2-f] [1,2,4]triazolo[4,3-a][1,4]diazepine); Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine); Flubromazepam (7-bromo-5-(2-fluorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one); Flubromazolam (8-bromo-6-(2-fluorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine); Flunitrazolam (6-(2-fluorophenyl)-1-methyl-8-nitro-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine); Nifoxipam (5-(2-fluorophenyl)-1,3-dihydro-3-hydroxy-7-nitro-2H-1,4-benzodiazepin-2-one); Nitrazolam (1-methyl-8-nitro-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine); Pyrazolam (8-bromo-1-methyl-6-(2-pyridinyl)-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine); 4-CN-CUMYL-BUTINACA (1-(4-Cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide); Alpha-Phenylacetoacetonitrile (3-Oxo-2-phenylbutanenitrile); 2-Fluoro Deschloroketamine (2-(2-Fluorophenyl)-2-(methylamino)-cyclohexanone, monohydrochloride); 4-MEAP (2-(Ethylamino)-1-(4-methylphenyl)pentan-1-one); Bromazolam (8-bromo-1-methyl-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine); Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4 H-[1,2,4]triazolo[4,3 a][1,4]benzodiazepine); Cloniprazepam (5-(2-chlorophenyl)-1-(cyclopropylmethyl)-1,3-dihydro-7-nitro-2H-1,4-benzodiazepin-2-one); Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6H-thieno[3,2-f] [1,2,4]triazolo[4,3-a][1,4]diazepine); Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine); Flubromazepam (7-bromo-5-(2-fluorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one); Flubromazolam (8-bromo-6-(2-fluorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine); Flunitrazolam (6-(2-

fluorophenyl)-1-methyl-8-nitro-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine); Nifoxipam (5-(2-fluorophenyl)-1,3-dihydro-3-hydroxy-7-nitro-2H-1,4-benzodiazepin-2-one); Nitrazolam (1-methyl-8-nitro-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine); Pyrazolam (8-bromo-1-methyl-6-(2-pyridinyl)-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine); Declazepam (7-Chloro-5-(2-chlorophenyl)-1-methyl-1,3-dihydro-2H-1,4-benzodiazepin-2-one); Deschloroetizolam (2-Ethyl-9-methyl-4-phenyl-6H-thieno[3,2-f][1,2,4]triazolo[4,3-a][1,4]diazepine); Ethcathinone (2-(ethylamino)-1-phenyl-1-propanone, monohydrochloride); Alpha-PHP (1-Phenyl-2-(pyrrolidin-1-yl)hexan-1-one); MPHP (1-(4-Methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one); PV8 (1-Phenyl-2-(pyrrolidin-1-yl)heptan-1-one); 4-Chloro-Alpha-PVP (1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one); N-Ethylhexedrone (2-(Ethylamino)-1-phenylhexan-1-one); Methoxetamine (2-(Ethylamino)-2-(3-methoxyphenyl)-cyclohexanone); 3-Fluorophenmetrazine (2-(3-Fluorophenyl)-3-methylmorpholine); adding the following to the schedule II list: Norfentanyl; Oliceridine; adding the following to the schedule IV list: Lemborexant; Remimazolam; Serdexmethylphenidate; and removing Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid] from the schedule V list"; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 704 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-27, relating to requiring each classroom teacher to comply with any request by a parent, grandparent, or guardian to inspect any instructional materials and books in the classroom that are available for students to read; requiring, as part of the inspection and upon request of the parent, grandparent, or guardian, that the classroom teacher demonstrate how the supplementary instructional material relates to the content standards adopted by

the State Board of Education; requiring the classroom teacher to include any book or books students will be required to read on a class syllabus; requiring the syllabus to be made available to the parent, grandparent, or guardian upon request; allowing any parent, grandparent, or guardian to file a complaint with the county superintendent if the classroom teacher fails to comply with this new section, and then with the state superintendent if the complaint is not resolved by the county superintendent within seven days; requiring reports on the number of complaints filed; and defining terms"; which was referred to the Committee on Education.

A message from the Senate, by

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

S. B. 711 - "A Bill to amend and reenact §18-2-7f of the Code of West Virginia, 1931, as amended, relating to establishing alternative educational opportunities for elective course credit; requiring the state board to establish, develop, and maintain a program whereby students can earn elective course credit for extended learning opportunities; establishing eligibility requirements for extended learning opportunity programs; setting forth parameters for the implementation of the program by the state board; providing for an application, denial, and appeals process; allowing for the auditing of approved programs; and providing guidelines for student credit transfers and transportation"; which was referred to the Committee on Education.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 726 - "A Bill to amend and reenact §61-11-22 and §61-11-22a of the Code of West Virginia, 1931, as amended, all relating generally to pretrial diversion agreements and deferred prosecution agreements; listing offenses for which pretrial diversion prohibited; listing offenses where defendant is authorized under certain circumstances and with certain limitations; and setting out

procedures for deferred prosecutions"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 728 - "A Bill to amend and reenact §15-2C-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §15-12-2 of said code, all relating to requiring certain persons required to register with State Police to pay an annual fee; requiring registered sex offenders to pay annual fee; providing for use of fee by State Police to defray costs associated with monitoring sex offenders; providing that failure to pay annual fee shall not be deemed a violation of the person's supervised release; and providing for recordation and indexing of nonpayment of annual fee which shall have the force of a judgment; requiring persons required to be placed on Central Abuse Registry to pay annual fee; providing for use of fee by State Police to defray costs associated with maintaining registry; providing that failure to pay annual fee shall not be deemed a violation of the person's supervised release; and providing for recordation and indexing of nonpayment of annual fee which shall have the force of a judgment"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 729 - "A Bill to repeal §31-15-20 of the Code of West Virginia, 1931, as amended; to amend and reenact §12-6C-11 of said code; to amend said code by adding thereto a new section, designated §12-6C-11b; and to amend and reenact §31-15-23 of said code, all relating generally to funding for infrastructure and economic development projects in the state; discontinuing the revolving loan from the Board of Treasury Investments to the Economic Development Authority upon the authority's receipt of an appropriation by the Legislature; requiring the Board of

Treasury Investments to make a revolving loan available to the Department of Transportation; establishing a special revenue fund to receive loan moneys; permitting the Secretary of Transportation to make certain expenditures of loan moneys; requiring the secretary to reimburse the fund upon receipt of federal reimbursement moneys; providing when moneys in the fund will revert to the Consolidated Fund; establishing reporting requirements related to the fund; allowing the Board of Treasury Investments to inspect records related to the fund; defining terms; establishing a special revenue fund to receive moneys appropriated to the Economic Development Authority; allowing the authority to invest the moneys in the fund; providing that a certain amount of moneys in the fund be used for high impact economic development projects; establishing accounting and auditing standards related to the fund; and establishing project status reporting requirements related to the fund"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 730 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §12-9-1, §12-9-2, and §12-9-3, all relating generally to authorizing divestment of state-managed funds from companies engaged in certain activities involving Russia or Russian energy; setting forth legislative findings; defining terms; authorizing public investment entities in the state to divest from Russia-restricted companies; providing that divestment from Russia-restricted companies does not violate code provisions related to prudent investment and fiduciary duties; and limiting liability of public officials or employees and members or employees of public investment entities for divestment from Russia-restricted companies"; which was referred to the Committee on Finance.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

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

H. B. 4850 - "A Bill supplementing and amending appropriations of public moneys out of the Treasury in the State Fund, General Revenue, by decreasing an existing item of appropriation and adding a new item of appropriation to the Executive, Governor's Office, fund 0101, fiscal year 2022, organization 0100, by supplementing and amending appropriations for the fiscal year ending June 30, 2022"; to the Committee on Finance.

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

H. B. 4851 - "A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Tourism – Tourism Workforce Development Fund, fund 8903, fiscal year 2022, organization 0304, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; to the Committee on Finance.

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

H. B. 4852 - "A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Hospital Finance Authority – Hospital Finance Authority Fund, fund 5475, fiscal year 2022, organization 0509, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; to the Committee on Finance.

Special Calendar

Unfinished Business

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

S. C. R. 1, US Army PFC Billy Keith Ford Memorial Bridge,

S. C. R. 3, USMC CAPT Dempsey Stowers Memorial Bridge,

Com. Sub. for S. C. R. 5, US Marine Corps CPL James "Bud" Cox Memorial Bridge,

S. C. R. 9, Haynie Family Veterans Memorial Bridge,

Com. Sub. for S. C. R. 28, US Army PVT Garland Lee Loudermilk Memorial Bridge,

H. C. R. 5, James "Big Jim" Shaffer Memorial Bridge,

H. C. R. 39, PFC Donald L. Stuckey Memorial Bridge,

H. C. R. 56, Roy Lee Shamblin Memorial Bridge.

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

H. C. R. 92, Mental health study for students in higher education institutions; on unfinished business, was reported by the Clerk, and adopted.

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

Third Reading

Com. Sub. for S. B. 419, Establishing pilot project to evaluate impact of certain post-substance use disorder residential treatments; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 359)**, and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Brown, Espinosa, Hamrick, Hornbuckle, Householder, Jennings and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 419) passed.

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

S. B. 499, Authorizing legislative rules for School Building Authority; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 360)**, and there were—yeas 93, nays 1, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Hanna.

Absent and Not Voting: Brown, Espinosa, Hamrick, Householder, Jennings and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 499) passed.

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

On this question, the yeas and nays were taken **(Roll No. 361)**, and there were—yeas 93, nays 1, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Hanna.

Absent and Not Voting: Brown, Espinosa, Hamrick, Householder, Jennings and Paynter.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 499) takes effect from its passage.

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

S. B. 713, Removing statutory limit for Environmental Laboratory Certification Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 362)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Brown, Espinosa, Hamrick, Householder, Jennings and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 713) passed.

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

On this question, the yeas and nays were taken **(Roll No. 363)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Brown, Espinosa, Hamrick, Householder, Jennings and Paynter.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 713) takes effect from its passage.

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

Second Reading

S. B. 448, Developing policies and procedures for Statewide Interoperability Executive Committee; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 520, Increasing financial penalties for ransomware attacks; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 523, Transferring oversight of Jobs Investment Trust Fund to WV Economic Development Authority; on second reading, coming up in regular order, was read a second time.

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

"**CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

ARTICLE 7. JOBS INVESTMENT TRUST FUND.

§12-7-2. Legislative findings.

(a) The Legislature finds that the ~~creation of a public body corporate~~ Jobs Investment Trust is a necessary tool to make investment funds available to eligible businesses, would stimulate economic growth, and provide or retain jobs within the state. Accordingly, it is declared to be the public policy of the state to create an investment program to inject needed capital into the business community, sustain or improve business profitability, and provide jobs to the citizens of the state.

(b) The Legislature further finds that:

(1) The availability of financial assistance through the creation of the jobs investment trust will promote economic development in the state and will serve the public purposes of the state;

(2) The public policy of the state will be served through financing projects, extending loans, providing financing or credit for working capital, creating innovative investment plans and options, and providing equity financing or the refinancing of existing debt of an enterprise;

(3) It is in the public interest, in order to address the needs of the business community and the citizens of the state, that a public body corporate be created with full power to accept grants, gifts, and appropriations; to generate revenues to furnish money and credit to approved businesses or enterprises; to promote the establishment of new and innovative projects; and to upgrade, expand, and retain existing projects; and

(4) Fundamental changes are occurring in national and international markets that increase the need for debt financing, equity capital, and near-equity capital for emerging, expanding, and restructuring business opportunities in the state.

(c) The Legislature further finds that:

(1) ~~That due~~ Due to the creation of the ~~jobs investment trust~~ Jobs Investment Trust, moneys will be available for venture capital in this state;

(2) ~~That the~~ The implementation of this innovative program may supplant the need for the state to otherwise assist private venture capital concerns through other tax credits;

(3) ~~That due~~ Due to the availability of venture capital funds through this program the granting of venture capital company credits under the Capital Company Act should be reduced for three fiscal years pending the full implementation of the Jobs Investment Trust Program;

(4) ~~That due~~ Due to this reduction in the certification of tax credits, additional general revenue may become available for new economic development programs;

(5) These economic development programs may be funded from general revenue in an amount appropriate to effectuate the purposes of these programs; and

(6) Due to the foregoing findings, there shall be an annual line item appropriation, in an amount determined by the Legislature, to the West Virginia ~~development office~~ Development Office for a matching grant program for regional economic development corporations or authorities.

§12-7-3. Definitions.

For purposes of this article:

(a) 'Board' means ~~the jobs investment trust board established pursuant to section four of this article~~ the West Virginia Economic Development Authority, established pursuant to §31-15-1 *et seq.* of this code.

(b) 'Eligible business' means any business, including, but not limited to, a business licensed or seeking licensure by the small business administration as a small business investment company under the ~~small business investment act~~ Small Business Investment Act, which is qualified to do business in West Virginia and is in good standing with all applicable laws affecting the conduct of such business.

(c) '~~Nonincentive~~ Non-incentive tax credits' means the ~~nonincentive~~ non incentive tax credits issued by the state to the ~~jobs investment trust board~~ Jobs Investment Trust Board and authorized for sale and transfer by the jobs investment trust board pursuant to ~~section eight-a of this article~~ §12-7-8a of this code.

(d) 'Securities' means all bonds, notes, stocks, units of ownership, debentures, or any other form of negotiable or nonnegotiable evidence of indebtedness or ownership.

§12-7-4. Jobs Investment Trust Board; termination; vesting with the Economic Development Authority ~~composition; appointment, term of private members; chairman; quorum~~.

(a) The Jobs Investment Trust Board is ~~continued~~ hereby terminated, and the management and control of the Jobs Investment Trust shall be vested in the West Virginia Economic Development Authority. ~~The board is a public body corporate and established to improve and otherwise promote economic development in this state.~~

~~(b) The board consists of thirteen members, five of whom serve by virtue of their respective positions. These five are the Governor or designee; president of West Virginia University or designee; the president of Marshall University or designee; the chancellor of the higher education policy commission or designee; and the executive director of the West Virginia housing development fund. One member is appointed by the Governor from a list of two names submitted by the board of directors of the Housing Development Fund. One member is appointed by the Governor from a list of two names submitted by the commissioner of the division of tourism. The other six members are appointed from the general public by the Governor. Of the general public members appointed by the Governor, one is an attorney with experience in finance and investment matters; one is a certified public accountant; one is a representative of labor; one is experienced or involved in innovative business development; and two are present or past executive officers of companies listed on a major stock exchange or large privately held companies. All appointments made pursuant to the provisions of this article are by and with the advice and consent of the Senate.~~

~~(c) A vacancy on the board is filled by appointment by the Governor in the same manner as the original appointment. A member appointed to fill a vacancy serves for the remainder of the unexpired term.~~

~~(d) The Governor may remove any appointed member in case of incompetency, neglect of duty, moral turpitude or malfeasance in office and fill the vacancy as provided in other cases of vacancy.~~

~~(e) The Governor or designee serves as the chair. The board annually elects one of its public members as vice chair and appoints~~

~~a secretary to keep records of its proceedings who need not be a member of the board.~~

~~(f) Seven members of the board is a quorum. Action may not be taken by the board except upon the affirmative vote of at least a majority of those members present or participating by any other means as described in subsection (g) of this section, but in any event not fewer than six of the members serving on the board.~~

~~(g) Members of the board may participate in a meeting of the board by means of conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other. Participation in a board meeting pursuant to this subsection constitutes presence in person at the meeting.~~

~~(h) The members of the board are not compensated for their services as members of the board, but receive reasonable and necessary expenses actually incurred in discharging their duties under this article in a manner consistent with guidelines of the travel management office of the Department of Administration.~~

~~(i) The board meets on a quarterly basis or more often if necessary.~~

~~(j) The Governor shall appoint a member for a four year term. Any member whose term has expired serves until a successor is duly appointed and qualified. Any member is eligible for reappointment.~~

~~(k) Additionally, one member of the West Virginia House of Delegates, appointed by the Speaker of the House of Delegates, and one member of the West Virginia Senate, appointed by the President of the Senate, serve as advisory members of the Jobs Investment Trust Board and, as advisory members, are ex officio, nonvoting members.~~

(b)The board shall meet on a quarterly basis or more often, if necessary, to carry out the powers and duties of the board with respect to the management of the Jobs Investment Trust, as set forth in this article.

(c) For the purposes of managing the Jobs Investment Trust, the rules related to board makeup and quorum requirements shall be the same as those set forth in §31-15-5 of this code.

§12-7-5. Management and control of jobs investment trust vested in board; officers; liability; authority of executive director to act on behalf of board; relationship to higher education institutions.

(a) It is the duty of the board to manage and control the Jobs Investment Trust. With the advice and consent of the Senate, the Governor appoints an executive director of the ~~jobs investment trust~~ Jobs Investment Trust who is or has been a senior executive of a major financial institution, brokerage firm, investment firm or similar institution, with extensive experience in capital market development. The director serves at the Governor's will and pleasure and is responsible for managing and administering the daily functions of the ~~jobs investment trust~~ Jobs Investment Trust and for performing other functions necessary to the effective operation of the trust. The compensation of the director is annually fixed by the board.

(b) The board annually elects a secretary to keep a record of the proceedings of the board, who need not be a member of the board.

(c) The members and officers of the board are not liable personally, either jointly or severally, for any debt or obligation created by the board.

(d) The acts of the board are solely the acts of its corporation and are not those of an agent of the state. A debt or obligation of the board is not a debt or obligation of the state.

(e) Upon the affirmative vote of at least a majority of those members in attendance ~~or participating by such other means as described in subsection (g), section four of this article~~ in a meeting of the board~~, but in any event not fewer than six of the members serving on the board~~, the board may approve any action to be taken and authorize the executive director for and on behalf of the board to execute and deliver all instruments, agreements, or other

documents that are required or are reasonably necessary to effectuate the decisions or acts of the board.

(f) The West Virginia ~~Housing Development Fund~~ Economic Development Authority shall provide office space and staff support services for the director and the board shall act as fiscal agent for the board and, as such, shall provide accounting services for the board, invest all funds as directed by the board, service all investment activities of the board, and shall make the disbursements of all funds as directed by the board, for which the West Virginia ~~Housing Development Fund~~ Economic Development Authority shall be reasonably compensated as determined by the board.

(g) The board and the executive director shall involve students and faculty members of state institutions of higher education in the board's activities in order to enhance the opportunities at the institutions for learning and for participation in the board's investment activities and in the economic development of the state, whether in research, financial analysis, management participation, or in such other ways as the board and the executive director may~~, in their discretion,~~ find appropriate.

§12-7-6. Corporate powers.

The board may:

(1)(~~i~~A) Make loans to eligible businesses with or without interest secured if and as required by the board; and (~~ii~~B) acquire ownership interests in eligible businesses. These investments may be made in eligible businesses that stimulate economic growth and provide or retain jobs in this state and shall be made only upon the determination by the board that the investments are prudent and meet the criteria established by the board;

(2) Accept appropriations, gifts, grants, bequests, and devises and use or dispose of them to carry out its corporate purposes;

(3) Make and execute contracts, releases, compromises, agreements, and other instruments necessary or convenient for the exercise of its powers or to carry out its corporate purposes;

(4) Collect reasonable fees and charges in connection with making and servicing loans, notes, bonds, obligations, commitments, and other ~~evidences~~ evidence of indebtedness, in connection with making equity investments and in connection with providing technical, consultative, and project assistance services;

(5) Sue and be sued;

(6) Make, amend, and repeal bylaws and rules consistent with the provisions of this article;

(7) Hire its own employees, who shall be employees of the State of West Virginia for purposes of ~~articles ten and sixteen, chapter five of this code~~ §5-10-1 *et seq.* and §5-16-1 *et seq.* of this code, and appoint officers and consultants and fix their compensation and prescribe their duties;

(8) Acquire, hold, and dispose of real and personal property for its corporate purposes;

(9) Enter into agreements or other transactions with any federal or state agency, college or university, any person and any domestic or foreign partnership, corporation, association, or organization;

(10) Acquire real and personal property, or an interest in real or personal property, in its own name, by purchase or foreclosure when acquisition is necessary or appropriate to protect any loan in which the board has an interest; to sell, transfer, and convey any real or personal property to a buyer; and, in the event a sale, transfer, or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease real or personal property to a tenant;

(11) Purchase, sell, own, hold, negotiate, transfer, or assign: (~~i~~A) Any mortgage, instrument, note, credit, debenture, guarantee, bond, or other negotiable instrument or obligation securing a loan, or any part of a loan; (~~ii~~B) any security or other instrument evidencing ownership or indebtedness; or (~~iii~~C) equity or other ownership interest. An offering of one of these instruments shall include the representation and qualification that the board is a public body corporate, managing a venture capital fund that

includes high-risk investments and that in any transfer, sale, or assignment of any interest, the transferee, purchaser, or assignee accepts any risk without recourse to the Jobs Investment Trust or to the state;

(12) Procure insurance against losses to its property in amounts, and from insurers, as is prudent;

(13) Consent, when prudent, to the modification of the rate of interest, time of maturity, time of payment of installments of principal or interest, or any other terms of the investment, loan, contract, or agreement in which the board is a party;

(14) Establish training and educational programs to further the purposes of this article;

(15) File its own travel rules;

(16) Borrow money to carry out its corporate purpose in principal amounts and upon terms as are necessary to provide sufficient funds for achieving its corporate purpose;

(17) Take options in or warrants for, subscribe to, acquire, purchase, own, hold, transfer, sell, vote, employ, mortgage, pledge, assign, pool, or syndicate: (~~i~~A) Any loans, notes, mortgages, or securities; (~~ii~~B) debt instruments, ownership certificates, or other instruments evidencing loans or equity; or (~~iii~~C) securities or other ownership interests of or in domestic or foreign corporations, associations, partnerships, limited partnerships, limited liability partnerships, limited liability companies, joint ventures, or other private enterprise to foster economic growth, jobs preservation and creation in the ~~state~~ State of West Virginia, and all other acts that carry out the board's purpose;

(18) Contract with either Marshall ~~university~~ University or West Virginia ~~university~~ University, or both, for the purpose of retaining the services of, and paying the reasonable cost of, services performed by the institution for the board ~~in order~~ to effectuate the purposes of this article;

(19) Enter into collaborative arrangements or contracts with private venture capital companies when considered advisable by the board;

(20) Provide equity financing for any eligible business that will stimulate economic growth and provide or retain jobs in this state and hold, transfer, sell, assign, pool, or syndicate, or participate in the syndication of, any loans, notes, mortgages, securities, debt instruments, or other instruments evidencing loans or equity interest in furtherance of the board's corporate purposes;

(21) Form partnerships, create subsidiaries, or take all other actions necessary to qualify as a small business investment company under the United States Small Business Investment Act, PL 85-699, as amended;

(22) Provide for staff payroll and make purchases in the same manner as the ~~housing development fund~~ West Virginia Economic Development Authority;

(23) Indemnify its members, directors, officers, employees, and agents relative to actions and proceedings to which they have been made parties and make advances for expenses relative thereto and purchase and maintain liability insurance on behalf of those persons all to the same extent as authorized for West Virginia business corporations under present or future laws of the state applicable to business corporations generally; and

(24) Contract for the provision of legal services by private counsel and, notwithstanding the provisions of ~~article three, chapter five~~ §5-3-1 *et seq.* of this code, counsel may, but is not limited to, represent the board in court, negotiate contracts and other agreements on behalf of the board, render advice to the board on any matter relating thereto, prepare contracts and other agreements, and provide any other legal services requested by the board.

§12-7-7. Limitation on investments.

Subject to the provisions of §12-7-9 of this code ~~section nine of this article~~, the board may invest in any eligible business:

Provided, That at the time of the placement of the investment not more than ~~twenty~~ 20 percent of the board's total investment portfolio is invested in one eligible business within any two-year period: *Provided, however*, That the board may invest in an eligible business up to an additional ~~twenty~~ 20 percent of the board's total investment portfolio, or up to a total of $2,000,000, whichever is less. The additional investment must be in the form of a short-term debt investment to be repaid within ~~twelve~~ 12 months of the investment: *Provided further*, That the board may extend said ~~twelve-~~ 12-month repayment term ~~until September 30, 1994,~~ and upon terms consistent with the actions of other investors involved in similar investments with the eligible business if the eligible business demonstrates to the board: (~~i~~1) That said business is progressing with a plan for capital formation and business development; and (~~ii~~2) that said extension of the ~~twelve-~~ 12-month period, and any other modification thereto, will not substantially prejudice the position of the board in relation to the other investors in, and creditors of, the eligible business: ~~The board shall report any extension of any repayment term made prior March 31, 1994, and approved by the board pursuant to the provisions of this section, to the governor and to the Legislature's joint committee on government and finance within twenty days of such approval:~~ *And ~~provided further~~* *Provided further*, That the board shall report to the ~~governor~~ Governor and the ~~joint committee on government and finance~~ Joint Committee on Government and Finance of its intention to extend any repayment term at least ~~twenty~~ 20 days prior to the board approving any extension made on or after April 1, 1994. Any reported intent to extend any repayment term may be made electronically.

§12-7-8. Funding.

[Repealed].

§12-7-9. Applications for investment priority; investment package.

(a) The board shall accept and review applications from eligible businesses and shall determine the investment worthiness, the benefits to the West Virginia economy, the leverage potential

for investments in small business investment companies, the jobs creation potential, and the economic circumstances of the region or regions of the state that would benefit from each proposal. The board shall attempt to balance its investments, as nearly as is practicable, among the geographic regions of the state.

(b) Any faculty or students of a public or private institution of higher education in the state may present for the board's consideration proposals relating to innovative projects or investment opportunities.

(c) An annual audit shall be conducted by an independent firm of certified public accountants and shall be made available to the Legislature annually. A copy of the audit may be provided to the Legislature electronically and paper copies may be provided upon the request of any member.

(d) The board shall forward to the West Virginia ~~housing development fund~~ Economic Development Authority for its review and information approved investment packages containing information as is necessary to permit the West Virginia ~~housing development fund~~ Economic Development Authority to carry out its duties under this article. The board shall determine whether each applicant is an eligible business.

§12-7-12. Reports of board; report of housing development fund.

(a) The board shall prepare annually, or more frequently if deemed necessary by the board, a report of its operations and the performance of the various investments administered by it. A copy thereof shall be furnished to the ~~governor~~ Governor, the ~~president~~ President of the Senate, the ~~speaker~~ Speaker of the House of Delegates, the ~~legislative auditor~~ Legislative Auditor, and, upon request, to any legislative committee. Such report shall be kept available for inspection by any citizen of this state. The report required in this subsection may be made available electronically on the board's website or through the website of the West Virginia Economic Development Authority. The report may be submitted to the Governor, the President of the Senate, the Speaker of the House

of Delegates, the Legislative Auditor, or to any legislative committee electronically and paper copies must be provided upon request.

(b) The West Virginia ~~housing development fund~~ Economic Development Authority shall prepare annually and submit to the ~~president~~ President of the Senate, the ~~speaker~~ Speaker of the House of Delegates, the ~~legislative auditor~~ Legislative Auditor, and, upon request, any legislative committee, a report on the performance of the board and the quality of its investments for the preceding year. The report required in this subsection may be made available electronically on the West Virginia Economic Development Authority's website. The report may be submitted to the Governor, the President of the Senate, the Speaker of the House of Delegates, the Legislative Auditor, or to any legislative committee electronically and paper copies must be provided upon request.

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§31-15-6. General powers of authority.

The authority, as a public corporation and governmental instrumentality exercising public powers of the state, shall have and may exercise all powers necessary or appropriate to carry out the purposes of this article, including the power:

(~~a~~1) To cooperate with industrial development agencies in efforts to promote the expansion of industrial, commercial, manufacturing, and tourist activity in this state.

(~~b~~2) To determine, upon the proper application of an industrial development agency or an enterprise, whether the declared public purposes of this article have been or will be accomplished by the establishment by such agency or enterprise of a project in this state.

(~~c~~3) To conduct examinations and investigations and to hear testimony and take proof, under oath or affirmation, at public or

private hearings, on any matter relevant to this article and necessary for information on the establishment of any project.

(~~d~~4) To issue subpoenas requiring the attendance of witnesses and the production of books and papers relevant to any hearing before such authority or one or more members appointed by it to conduct any hearing.

(~~e~~5) To apply to the circuit court having venue of such offense to have punished for contempt any witness who refuses to obey a subpoena, to be sworn or affirmed, or to testify or who commits any contempt after being summoned to appear.

(~~f~~6) To authorize any member of the authority to conduct hearings, administer oaths, take affidavits, and issue subpoenas.

(~~g~~7) To financially assist projects by insuring obligations in the manner provided in this article through the use of the insurance fund.

(~~h~~8) To finance any projects by making loans to industrial development agencies or enterprises upon such terms as the authority shall deem appropriate: *Provided*, That nothing contained in this subsection or under any other provision in this article shall be construed as permitting the authority to make loans for working capital: *Provided, however*, That nothing contained in this article shall be construed as prohibiting the authority from insuring loans for working capital made to industrial development agencies or to enterprises by financial institutions: *Provided further*, That nothing contained in this subsection or any other provision of this article shall be construed as permitting the authority to refinance existing debt except when such refinancing will result in the expansion of the enterprise whose debt is to be refinanced or in the creation of new jobs: *And provided further*, That nothing contained in this subsection or any other provision of this article shall be construed as prohibiting the authority from making working capital loans from a revolving loan fund capitalized with federal grant funds including, but not limited to, federal grant funds received from the United States Economic Development Administration.

(~~i~~9) To issue revenue bonds or notes to fulfill the purposes of this article, and to secure the payment of such bonds or notes, all as hereinafter provided.

(~~j~~10) To issue and deliver revenue bonds or notes in exchange for a project.

(~~k~~11) To borrow money for its purposes and issue bonds or notes for the money and provide for the rights of the holders of the bonds or notes or other negotiable instruments, to secure the bonds or notes by a deed of trust on, or an assignment or pledge of, any or all of its property and property of the project, including any part of the security for loans, and the authority may issue and sell its bonds and notes, by public or private sale, in such principal amounts as it shall deem necessary to provide funds for any purposes under this article, including the making of loans for the purposes set forth in this article.

(~~l~~12) To maintain such sinking funds and reserves as the board shall determine appropriate for the purposes of meeting future monetary obligations and needs of the authority.

(~~m~~13) To sue and be sued, implead and be impleaded, and complain and defend in any court.

(~~n~~14) To adopt, use, and alter ~~at will~~ a corporate seal.

(~~o~~15) To make, amend, repeal, and adopt both bylaws and rules and regulations for the management and regulation of its affairs.

(~~p~~16) To appoint officers, agents, and employees and to contract for and engage the services of consultants.

(~~q~~17) To make contracts and to execute all instruments necessary to carry out the powers and duties of the authority, as provided in this article: *Provided*, That the provisions of §5A-3-3 of this code do not apply to contracts made pursuant to this subdivision: *Provided, however*, That nothing in this article authorizes the authority to enter into contracts or agreements with financial institutions, as that term is defined in §31A-1-2 of this

code, for banking goods and services without approval of the State Treasurer, in accordance with §12-1-1 *et seq.* of this code.

(~~r~~18) To accept grants and loans from and enter into contracts and other transactions with any federal agency.

(~~s~~19) To take title by conveyance or foreclosure to any project where acquisition is necessary to protect any loan previously made by the authority and to sell, by public or private sale, transfer, lease, or convey such project to any enterprise.

(~~t~~20) To participate in any reorganization proceeding pending pursuant to the United States Code (being the act of Congress establishing a uniform system of bankruptcy throughout the United States, as amended) or in any receivership proceeding in a state or federal court for the reorganization or liquidation of an enterprise. The authority may file its claim against any such enterprise in any of the foregoing proceedings, vote upon any questions pending therein which requires the approval of the creditors participating in any reorganization proceeding or receivership, exchange any evidence of such indebtedness for any property, security, or evidence of indebtedness offered as a part of the reorganization of such enterprise or of any other entity formed to acquire the assets thereof and may compromise or reduce the amount of any indebtedness owing to it as a part of any such reorganization.

(~~u~~21) To acquire, construct, maintain, improve, repair, replace, and operate projects within this state, as well as streets, roads, alleys, sidewalks, crosswalks, and other means of ingress and egress to and from projects located within this state.

(~~v~~22) To acquire, construct, maintain, improve, repair, and replace and operate pipelines, electric transmission lines, waterlines, sewer lines, electric power substations, waterworks systems, sewage treatment and disposal facilities, and any combinations thereof for the use and benefit of any enterprise located within this state.

(~~w~~23) To acquire watersheds, water and riparian rights, rights-of-way, easements, licenses, and ~~any and~~ all other property,

property rights, and appurtenances for the use and benefit of any enterprise located within this state.

(~~x~~24) To acquire, by purchase, lease, donation, or eminent domain, any real or personal property, or any right or interest therein, as may be necessary or convenient to carry out the purposes of the authority. Title to all property, property rights, and interests acquired by the authority shall be taken in the name of the authority.

(~~y~~25) To issue renewal notes, or security interests, to issue bonds to pay notes or security interests and, whenever it deems refunding expedient, to refund any bonds or notes by the issuance of new bonds or notes, whether the bonds or notes to be refunded have or have not matured and whether ~~or not~~ the authority originally issued the bonds or notes to be refunded.

(~~z~~26) To apply the proceeds from the sale of renewal notes, security interests, or refunding bonds or notes to the purchase, redemption or payment of the notes, security interests, or bonds or notes to be refunded.

(~~aa~~27) To accept gifts or grants of property, funds, security interests, money, materials, labor, supplies, or services from the United States of America or from any governmental unit or any person, firm, or corporation, and to carry out the terms or provisions of, or make agreements with respect to, or pledge, any gifts or grants, and to do any and all things necessary, useful, desirable, or convenient in connection with the procuring, acceptance, or disposition of gifts or grants.

(~~bb~~28) To the extent permitted under its contracts with the holders of bonds, security interests, or notes of the authority, to consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any bond, security interests, note or contract or agreement of any kind to which the authority is a party.

(~~cc~~29) To sell loans, security interests, or other obligations in the loan portfolio of the authority. Such security interests shall be

evidenced by instruments issued by the authority. Proceeds from the sale of loans, security interests, or other obligations may be used in the same manner and for the same purposes as bond and note revenues.

(~~dd~~30) To procure insurance against any losses in connection with its property, operations, or assets in such amounts and from such insurers as the authority deems desirable.

(~~ee~~31) To sell, license, lease, mortgage, assign, pledge, or donate its property, both real and personal, or any right or interest therein to another or authorize the possession, occupancy, or use of such property or any right or interest therein by another, in such manner and upon such terms as it deems appropriate.

(~~ff~~32) To participate with ~~the~~ state and federal agencies in efforts to promote the expansion of commercial and industrial development in this state.

(~~gg~~33) To finance, organize, conduct, sponsor, participate, and assist in the conduct of special institutes, conferences, demonstrations, and studies relating to the stimulation and formation of business, industry, and trade endeavors.

(~~hh~~34) To conduct, finance, and participate in technological, business, financial, and other studies related to business and economic development.

(~~ii~~35) To conduct, sponsor, finance, participate, and assist in the preparation of business plans, financing plans, and other proposals of new or established businesses suitable for support by the authority.

(~~jj~~36) To prepare, publish, and distribute, with or without charge, as the authority may determine, such technical studies, reports, bulletins, and other materials as it deems appropriate, subject only to the maintenance and respect for confidentiality of client proprietary information.

(~~kk~~37) To exercise such other and additional powers as may be necessary or appropriate for the exercise of the powers herein conferred.

(~~ll~~38) To exercise all ~~of~~ the powers which a corporation may lawfully exercise under the laws of this state.

(~~mm~~39) To contract for the provision of legal services by private counsel and, notwithstanding the provisions of §5-3-1 *et seq.* of this code, such counsel may, but is not limited to, represent the authority in court, negotiate contracts and other agreements on behalf of the authority, render advice to the authority on any matter relating thereto, prepare contracts and other agreements, and provide such other legal services as may be requested by the authority.

(~~nn~~40) To develop, maintain, operate, and apply for the establishment of foreign trade zones pursuant to and in accordance with all applicable provisions of federal law.

(~~oo~~41) To exercise the powers and responsibilities previously vested in the State Building Commission by §5-6-11a of this code, including, but not limited to, the authority to refund bonds issued in accordance with said section.

(42) To manage the Jobs Investment Trust described in §12-7-1 *et seq.* of this code, and to exercise those powers and responsibilities previously vested in the Jobs Investment Trust Board, as outlined in §12-7-6 of this code.

ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.

§31-18-20c. Jobs Development Fund.

There is hereby created and established a special fund to be designated as the ~~'jobs development fund'~~ Jobs Development Fund into which the Housing Development Fund shall, effective July 1, 1992, deposit the sum of $10 million. Thereafter, the Housing Development Fund shall have no further duty or obligation to, but may in its sole discretion, deposit additional funds. Effective July

1, 2022, such funds shall be governed, administered, and accounted for by the ~~Housing Development Fund~~ West Virginia Economic Development Authority established pursuant to §31-15-1 *et seq.* of this code as a special purpose account separate and distinct from any other moneys, fund, or funds owned or managed by the ~~Housing Development Fund~~ authority. The sole and exclusive purpose of such fund shall be to provide a source for distribution from time to time to the jobs investment trust as provided for in ~~article seven, chapter twelve~~ §12-7-1 *et seq.* of this code. Upon receipt by the ~~Housing Development Fund~~ authority from time to time of a written requisition from the trust together with a certificate that the funds so requisitioned will be used in accordance with the provisions of ~~article seven, chapter twelve~~ §12-7-1 *et seq.* of this code and are expected to be expended within ~~thirty~~ 30 days after such disbursement to fund a loan or other investment or to pay the operating expenses of the trust, the ~~Housing Development Fund~~ authority shall disburse the amount so requisitioned. Until so disbursed, the moneys initially deposited or thereafter from time to time deposited in such fund may be invested and reinvested by the ~~Housing Development Fund~~ authority as permitted under ~~subdivision (8), section six of this article~~ §31-18-6 of this code. ~~Upon the dissolution or the termination of the jobs investment trust board, any funds remaining in the jobs development fund shall automatically revert to the General Fund of the Housing Development Fund free of any limitations provided in this section.~~

The bill was then ordered to third reading.

Com. Sub. for S. B. 524, Placing duties and functions of certain boards and commissions under Department of Arts, Culture, and History; on second reading, coming up in regular order, was reported by the Clerk.

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

Com. Sub. for S. B. 537, Providing additional firefighters and security guards for National Guard; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 542, Transferring Broadband Enhancement Council from Department of Commerce to Department of Economic Development; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk, and adopted, on page 2, section 3, line 19, by striking out the word 'Technology' and inserting in lieu thereof the word '<u>Information</u>'."

The bill was ordered to third reading.

S. B. 597, Relating to PSC underground facilities damage prevention and one-call system; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 598, Establishing partnerships and aid for at-risk veterans to combat suicide; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 638, Changing hearing and notice provisions for failing or distressed public utilities; having been read a second time and postponed one day on yesterday, was reported by the Clerk.

On motion of Delegate Steele, the bill was amended on page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

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

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

(a) A proceeding under this article may be initiated by the commission on its own motion, or by the staff of the commission, or any other person or entity having a legal interest in the financial, managerial or operational condition of the utility, by filing a

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

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

~~(1) A Class I legal publication in a qualified newspaper pursuant to §59-3-2(a) of this code in the county or counties where the utility is located; to take place no more than 10 days before the date of the hearing~~

~~(2)~~ (1) Issuance of a press release;

~~(3)~~ (2) Written notice by certified mail or registered mail to:

(A) The utility;

(B) The Consumer Advocate Division;

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

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

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

~~(4)~~ (3) The utility shall give notice to its customers of the time, place and subject matter of the hearing either as a bill insert or printed on its monthly bill statement as ordered by the commission.

(c) The public hearing shall be conducted to receive public comments, including, but not limited to, comments regarding possible options available to bring the distressed or failing utility into compliance with appropriate statutory and regulatory standards concerning actual or imminent public health problems or unreasonable quality and reliability service standards. At the

evidentiary hearing, the commission shall receive evidence to determine if the utility is a distressed or failing utility and whether a capable proximate utility should acquire the utility. If there is more than one capable proximate utility, then sufficient evidence should be presented to allow the commission to determine the appropriate capable proximate utility to acquire the distressed or failing utility."

The bill was then ordered to third reading.

First Reading

The following bill on first reading, was read a first time and ordered to second reading:

Com. Sub. for S. B. 650, Eliminating number of royalty owners required for utilization by operator for lawful use and development by co-tenants.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Brown, Espinosa, Hamrick, Householder, Jennings and Paynter.

At 12:16 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, March 4, 2022.

Friday, March 4, 2022

FIFTY-SECOND DAY

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

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

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

The Clerk proceeded to read the Journal of Thursday, March 3, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Criss, Vice Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 4023, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4023 - "A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution,"

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

S. B. 493, Requiring county BOE make meetings available to public in-person and through internet,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 694, Relating to oil and gas conservation,

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

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

Your Committee on Government Organization has had under consideration:

S. B. 213, Establishing licensed professional counseling compact,

Com. Sub. for S. B. 330, Authorizing DOT to promulgate legislative rules,

And,

Com. Sub. for S. B. 522, Combining offices of WV State Americans with Disabilities Act and WV Equal Employment Opportunity,

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

Delegate Rohrbach, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 274, Requiring secretary of DHHR to allocate CPS workers by Bureau of Social Services' district annually,

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

Delegate Rohrbach, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 647, Prohibiting discrimination in organ donation process,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 647) was referred to the Committee on the Judiciary.

Delegate Rohrbach, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

S. B. 703, Relating to controlled substances schedule,

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

In accordance with the former direction of the Speaker, the bill (S. B. 703) was referred to the Committee on the Judiciary.

Delegate Rohrbach, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

S. B. 603, Prohibiting licensure and re-licensure in WV if applicant is prohibited from practicing in another jurisdiction,

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

Delegate Rohrbach, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 553, Relating to powers of WV Health Care Authority,

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

Delegate Rohrbach, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 181, Creating Core Behavioral Health Crisis Services System,

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

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

Your Committee on Energy and Manufacturing has had under consideration:

S. B. 1, Creating Mining Mutual Insurance Company,

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

In accordance with the former direction of the Speaker, the bill (S. B. 1) was referred to the Committee on Finance.

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

Your Committee on the Judiciary has had under consideration:

S. B. 427, Permitting WV Board of Medicine investigators to carry concealed weapon,

Com. Sub. for S. B. 466, Relating to limitations on civil actions or appeals brought by inmates,

And,

Com. Sub. for S. B. 575, Ensuring that imposition of certain sexual offenses apply to persons working in juvenile facilities,

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

Delegate Jeffries, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 3rd of March, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates.

H. B. 4048, WV Keep, Bear and Drive with Arms Act,

H. B. 4299, To prohibit the intentional interference with election processes and creating associated criminal penalties,

H. B. 4308, Authorizing disclosure of juvenile information to Crime Victims Compensation Fund for investigation and award of benefits,

H. B. 4312, Extending the option of electronic absentee ballot transmission to first responders in certain emergency circumstances,

And,

Com. Sub. for H. B. 4369, Update the telepsychology compact.

Delegate Jeffries, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 3rd of March, 2022, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

S. B. 639, Providing 45-day waiting period on rate increases when water and sewer services are purchased from municipality.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 505, Updating laws on licensure and regulation of money transmitters,

And,

Com. Sub. for S. B. 593, Allowing Marshall University's Forensic Analysis Laboratory access and participation in WV DNA database for certain purposes,

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a resolution of the House of Delegates as follows:

H. C. R. 23, Requesting the Division of Highways to place at least 10 additional signs along highways entering West Virginia honoring fallen veterans and Gold Star Families.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 715 - "A Bill supplementing and amending the appropriations of public moneys out of the State Treasury in the State Fund, General Revenue, by decreasing items of appropriation to the Department of Economic Development - Office of the Secretary, fund 0256, fiscal year 2022, organization 0307; and by increasing items of appropriation to the Department of Commerce - Office of the Secretary, fund 0606, fiscal year 2022, organization 0327 for the fiscal year ending June 30, 2022"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 716 - "A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Education, State Board of Education - Strategic Staff Development, fund 3937, fiscal year 2022, organization 0402, by supplementing and amending the

appropriations for the fiscal year ending June 30, 2022"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 717 - "A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to Miscellaneous Boards and Commissions, Board of Medicine - Medical Licensing Board Fund, fund 9070, fiscal year 2022, organization 0945, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 718 - "A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Administration, Travel Management - Aviation Fund, fund 2302, fiscal year 2022, organization 0215, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 719 - "A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Homeland Security, Fire

Commission - Fire Marshal Fees, fund 6152, fiscal year 2022, organization 0619, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 720 - "A Bill supplementing and amending the appropriations of public moneys out of the State Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, General Revenue, to the Executive, Governor's Office – Civil Contingent Fund, fund 0105, fiscal year 2022, organization 0100, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 722 - "A Bill expiring funds to the balance of the Department of Environmental Protection, Division of Environmental Protection - Reclamation of Abandoned and Dilapidated Property Program Fund, fund 3305, fiscal year 2022, organization 0313, in the amount of $10,000,000, from the Executive, Governor's Office, Coronavirus State Fiscal Recovery Fund, fund 8823, fiscal year 2022, organization 0100, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 723 - "A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Agriculture - West Virginia Spay Neuter Assistance Fund, fund 1481, fiscal year 2022, organization 1400, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 724 - "A Bill making a supplementary appropriation of public moneys out of the State Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2022, to the Department of Homeland Security, Division of Corrections and Rehabilitation - Regional Jail and Correctional Facility Authority, fund 6675, fiscal year 2022, organization 0608, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022"; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 725 - "A Bill supplementing and amending chapter eleven, Acts of the Legislature, regular session, 2021, known as the budget bill, as amended, in Title II from the appropriations of public moneys out of the State Treasury in the State Fund, General Revenue, to the Department of Homeland Security, West Virginia State Police, fund 0453, fiscal year 2022, organization 0612, by supplementing and amending the appropriations for the fiscal year ending June 30, 2022, by adding new language; therefore"; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. C. R. 49 - "Urging the Adjutant General to establish an Honor Guard in each National Guard unit to provide military funeral honors to honorably discharged veterans in West Virginia."

Whereas, Per capita, more citizens from West Virginia have served in our nation's armed forces than from any other state and we are proud of our citizens who, despite danger, have done what they must for peace and freedom; and

Whereas, Providing military funeral honors is one of the last ways to honor those who served; and

Whereas, Military funeral honors are normally provided by the veterans' organization of the state, however, because of the limited number of members and the age of the veterans available, there are many communities unable to provide these services; and

Whereas, With the West Virginia National Guard having some 6,000 members, there should be a designated Honor Guard trained and made available to provide military funeral honors when requested by the family or funeral director, assuring that no West Virginia veteran would be denied their proper honors; and

Whereas, It is always important that we honor the many brave West Virginians who have faced the enemy, been wounded, and have given their lives not only for our freedom but for freedom around the world; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature urges the Adjutant General to establish an Honor Guard in each National Guard unit to provide military funeral honors to honorably discharged veterans in West Virginia; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Honorable Jim Justice, Governor of the State of West Virginia, and to BG William E. Crane.

Resolutions Introduced

Delegate Keaton offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 97 - "Requesting the Division of Highways name a 1.7 mile stretch of highway, beginning at the intersection of Route 20/1 and County Route 20, also known as Mulberry Ridge Road, in Roane County, West Virginia, the 'U. S. Army Air Corps Private Albert J. Sutphin Memorial Highway'."

Whereas, Albert J. Sutphin was born on July 7, 1920, in Spencer, West Virginia, the son of Albert Lee Sutphin and Lillie Frances Nelson Sutphin; and

Whereas, Following high school, Albert J. Sutphin married Doris Pauline Morehead Sutphin, had two children, Laura June and Joseph Lee Sutphin, and was employed as a welder; and

Whereas, Albert J. Sutphin enlisted in the United States Army on April 13, 1943, in Huntington, West Virginia; and

Whereas, Albert J. Sutphin served as a Private, 32nd Photographic Squadron, 5th Reconnaissance Group, U.S. Army Air Force during World War II; and

Whereas, Albert J. Sutphin was a passenger on the S.S. Paul Hamilton (Hull Number 227) for her fifth voyage that left from Hampton Roads, Virginia on April 2, 1944, as part of convoy UGS 38, carrying supplies and the ground personnel of the 485th Bombardment Group and the 5th Reconnaissance Group of the United States Army Air Forces to Italy; and

Whereas, On the evening of April 20, 1944, the S.S. Paul Hamilton and other ships in the convoy were attacked 30 miles (48

km) in the Mediterranean Sea off the coast of Cape Benngut near Algiers by 23 German Ju 88 Bombers; and

Whereas, A single aerial torpedo struck the S.S. Paul Hamilton and detonated the cargo of high explosives and bombs, and the ship and crew disappeared within 30 seconds, with a total of approximately 580 men lost at sea; and

Whereas, Albert J. Sutphin was declared "Missing in Action" in the sinking of the S.S. Paul Hamilton during World War II, and was awarded the Purple Heart, Service Number 35657888; and

Whereas, The U.S.S. Landsdale (DD-426) and the S.S. Royal Star were also sunk in the April 20, 1944, attack, with an additional loss of approximately 47 men, and the Landsdale received four battle stars for World War II service; and

Whereas, It is fitting that an enduring memorial be established to commemorate Private Albert J. Sutphin and his contributions to our nation and state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a 1.7 mile stretch of highway, beginning at the intersection of Route 20/1 and County Route 20, also known as Mulberry Ridge Road, in Roane County, West Virginia, the "U. S. Army Air Corps Private Albert J. Sutphin Memorial Highway"; and, be it

Further Resolved, That the Division of Highways is hereby requested to erect signs containing bold and prominent letters identifying a 1.7 mile stretch of highway, beginning at the intersection of Route 20/1 and County Route 20, as the "U. S. Army Air Corps Private Albert J. Sutphin Memorial Highway"; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.

Special Calendar

Unfinished Business

Com. Sub. for S. C. R. 11, Dennis E. Davis Veterans Nursing Home; coming up in regular order, as unfinished business, was reported by the Clerk, and adopted.

The following resolutions, on unfinished business, were, in the absence of objection, considered en masse, and adopted:

Com. Sub. for S. C. R. 13, US Army PFC Joseph Stanley McKinney Memorial Bridge,

S. C. R. 23, USMC CPL Guy Maywood Edwards Memorial Bridge,

H. C. R. 95, Clemmer Brothers WWII Veterans Memorial Bridge,

And,

H. C. R. 96, U. S. Air Force Captain Perry Thomas Rose Memorial Road.

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

H. C. R. 31, Applying to the Congress of the United States to call a convention of states; on unfinished business, was reported by the Clerk.

During debate on the resolution, Delegate Linville was addressing the House when Delegate Barach arose to a point of order regarding the content of the Gentleman's remarks not pertaining to the resolution before the House.

The Speaker replied that the point was well taken and elaborated regarding what would be permitted in the debate on the resolution.

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

On this motion, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken **(Roll No. 364)**, and there were—yeas 22, nays 73, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Yeas: Barnhart, Booth, Conley, Ellington, Forsht, Foster, Honaker, D. Jeffries, J. Jeffries, Kimes, Longanacre, Mallow, Martin, Maynard, McGeehan, Miller, Rohrbach, Smith, Steele, Wamsley, G. Ward and Zatezalo.

Absent and Not Voting: Espinosa, Hamrick, Householder, Paynter and Toney.

So, a majority of the members present not having voted in the affirmative, the motion for the previous question was rejected.

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

The yeas and nays having been ordered, they were taken **(Roll No. 365)**, and there were—yeas 77, nays 19, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Pethtel, Pushkin, Rowe, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Espinosa, Hamrick, Householder and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the resolution (H. C. R. 31) adopted.

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

Third Reading

S. B. 448, Developing policies and procedures for Statewide Interoperability Executive Committee; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

On motion of Delegate Linville, the bill was amended on page 1, following the enacting clause by striking the rest of the bill in its entirety and inserting in lieu thereof the following:

"**ARTICLE 14. THE STATEWIDE INTEROPERABLE RADIO NETWORK.**

§15-14-6. Duties of the Statewide Interoperability Executive Committee.

The Executive Committee shall:

(1) Monitor the implementation and operation of the SIRN;

(2) Establish goals and guidance for the betterment of the SIRN;

(3) Review and approve all requests for use of the SIRN and its equipment, by a public or private entity;

(4) ~~Serve as the mechanism for developing, updating and implementing~~ Develop, update, and implement policies, procedures, and guidelines related to the SIRN;

(5) Identify new technologies and develop technologies and standards for the SIRN;

(6) Enhance the coordination of all available resources for public safety communications interoperability;

(7) Investigate all matters relating to integrity, foresight in funding and operations and planning for the SIRN;

(8) Revoke, suspend, or modify any entity's use of the SIRN and equipment connected to the SIRN*: Provided,* That nothing in

this section shall be construed to invalidate the vertical real estate management act as provided in §31G-5-3 of this code;

(9) Provide guidance and services to support the proper cleansing of all decommissioned radio previously connected to SIRN; and

(10) Require all state agencies to submit two-way telecommunications equipment, not handled by the Office of Technology, to the Division of Emergency Management for cleansing, redistribution, reuse, or for the sale of the two-way telecommunications equipment.

§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; and moneys received from the sale of recycled two-way telecommunications equipment pursuant to §15-14-6(10) of this code.

(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."

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 366)**, and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: J. Kelly.

Absent and Not Voting: Espinosa, Hamrick, Householder and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 448) passed.

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

S. B. 448 – "A Bill to amend and reenact §15-14-6 and §15-14-9 of the Code of West Virginia, 1931, as amended, all relating to the Statewide Interoperable Radio Network; providing duties for the Statewide Interoperability Executive Committee; authorizing the Statewide Interoperability Executive Committee to revoke, suspend, or modify any entity's use of the Statewide Interoperable Radio Network or equipment connected thereto; and requiring certain state agencies to submit two-way telecommunications equipment to the Division of Emergency Management for cleansing, redistribution, reuse or sale, with proceeds directed to the Statewide Interoperable Radio Network account."

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

Com. Sub. for S. B. 520, Increasing financial penalties for ransomware attacks; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 367)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Hamrick, Householder and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 520) passed.

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

Com. Sub. for S. B. 523, Transferring oversight of Jobs Investment Trust Fund to WV Economic Development Authority; on third reading, coming up in regular order, was read a third time.

Delegate Maynard requested to be excused from voting on Com. Sub. for S. B. 523 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class possibly to be affected and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 368)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Hamrick, Householder and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 523) passed.

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

Com. Sub. for S. B. 537, Providing additional firefighters and security guards for National Guard; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 369)**, and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Espinosa, Hamrick, Householder and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 537) passed.

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

S. B. 542, Transferring Broadband Enhancement Council from Department of Commerce to Department of Economic Development; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 370)**, and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Espinosa, Hamrick, Householder and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 542) passed.

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

On this question, the yeas and nays were taken **(Roll No. 371)**, and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Espinosa, Hamrick, Householder and Paynter.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 542) takes effect from its passage.

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

S. B. 597, Relating to PSC underground facilities damage prevention and one-call system; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 372)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Hamrick, Householder and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 597) passed.

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

Com. Sub. for S. B. 598, Establishing partnerships and aid for at-risk veterans to combat suicide; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 373)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Espinosa, Hamrick, Householder and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 598) passed.

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

S. B. 638, Changing hearing and notice provisions for failing or distressed public utilities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 374)**, and there were—yeas 82, nays 14, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Barach, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Hansen, Pushkin, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Espinosa, Hamrick, Householder and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 638) passed.

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

Second Reading

Com. Sub. for S. B. 524, Placing duties and functions of certain boards and commissions under Department of Arts, Culture, and History; on second reading, coming up in regular order, was read a second time.

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

Whereupon,

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

Delegate Zukoff moved to amend the bill on page 7, section 1, line 151, following the period by inserting a new subsection to read as follows:

"(s) The amendments enacted by SB524 during the 2022 Regular Session of the Legislature become effective July 1, 2023."

The question before the House being the adoption of the amendment, the same was put and did not prevail.

On motion of Delegate Steele, the bill was amended on page 19, section 8c, line 196, by creating a new subsection with the following language:

"(j) Any rules promulgated by the Library Commission will remain in full force and effect until amended, repealed, or superseded by another rule promulgated by the Library Commission or State Library Section."

The bill was then ordered to third reading.

Com. Sub. for S. B. 650, Eliminating number of royalty owners required for utilization by operator for lawful use and development by co-tenants; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

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

Com. Sub. for S. B. 515, Supplementing and amending appropriations of public moneys to Department of Administration, Public Defender Services,

S. B. 517, Expiring funds from unappropriated balance in State Excess Lottery Revenue Fund,

S. B. 525, Expiring funds from unappropriated balance in Lottery Net Profits,

S. B. 526, Supplementing and amending appropriations to Department of Commerce, Office of Secretary,

S. B. 527, Supplementing and amending appropriations to Department of Administration, Office of Technology,

S. B. 531, Increasing annual salaries of certain state employees,

S. B. 626, Supplementing, amending, and increasing existing items of appropriation from State Road Fund to DOT, DMV,

S. B. 627, Supplementing, amending, and increasing existing item of appropriation from State Road Fund to DOT, DOH,

S. B. 628, Supplementing and amending appropriations to Department of Commerce, DNR,

S. B. 629, Supplementing and amending appropriations to Department of Education, WV BOE, Vocational Division,

S. B. 630, Supplementing and amending appropriations to Higher Education Policy Commission, Administration – Control Account,

S. B. 636, Supplementing and amending appropriations to Department of Revenue, Office of Tax Appeals,

And,

S. B. 637, Supplementing and amending appropriations to Executive, Governor's Office – Civil Contingent Fund.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Espinosa, Hamrick, Householder and Paynter.

Miscellaneous Business

Delegate Fluharty asked unanimous consent that all discussion regarding H. C. R. 31 be printed in the Appendix to the Journal, which consent was not granted, objection being heard.

Pursuant to House Rule 132, consent was obtained to print the following remarks in the Appendix to the Journal:

- Delegates Rowe and B. Ward regarding H. C. R. 31

At 1:05 p.m., the House of Delegates adjourned until 10:00 a.m., Saturday, March 5, 2022.

Saturday, March 5, 2022

FIFTY-THIRD DAY

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

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

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

The Clerk proceeded to read the Journal of Friday, March 4, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

S. B. 440, Establishing Uniform Commercial Real Estate Receivership Act,

Com. Sub. for S. B. 470, Relating generally to health care decisions,

Com. Sub. for S. B. 508, Requiring certain attire for deer hunters with muzzleloaders,

Com. Sub. for S. B. 535, Providing for revocation of school personnel certification or licensure in certain circumstances,

S. B. 591, Relating to process for filling vacancies in state Legislature,

Com. Sub. for S. B. 595, Relating to Dangerousness Assessment Advisory Board,

And,

Com. Sub. for S. B. 616, Relating to confidentiality of court files and law-enforcement records of certain enumerated offenses,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 135, Relating to acquisition and disposition of property by urban development authority,

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

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

Your Committee on Government Organization has had under consideration:

S. B. 172, Increasing compensation of elected county officials,

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

In accordance with the former direction of the Speaker, the bill (S. B. 172) was automatically referred to the Committee on Finance.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 250 - "A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution."

At the respective requests of Delegate Summers, and by unanimous consent, reference of the bill (Com. Sub. for S. B. 250) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by
The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 15, Thomas Brothers Memorial Bridge.

A message from the Senate, by
The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 16, World War II Veterans Toothman Brothers Memorial Bridge.

A message from the Senate, by
The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 31, Applying to the Congress of the United States to call a convention of states.

A message from the Senate, by
The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 34, U.S. Navy Seaman 1st Class Byrne Lee Singleton Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 37, U.S. Army Corporal Charles William "Bill" Knight Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 40, USMC Cpl Guy Maywood Edwards Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 45, U.S. Army SP4 Dennis Harvey Roberts Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 46, U.S. Navy Seaman Donald Homer Wheeler Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 47, U.S. Army CPL Billy Earl Duty Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 63, U.S. Army MSGT Donald Lewis Coen Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 65, U.S. Army Major Jesse A. Jennings Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 72, U.S. Army SP5 Dana V. Perkins Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 73, Halstead Brothers WWII Veterans Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 76, U. S. Navy BM1 Farris Burton Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 81, U.S. Army Chief Warrant Officer Milford Arnold Cunningham Memorial Bridge.

A message from the Senate, by

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

S. C. R. 4 - "Requesting the Division of Highways name bridge number 23-016/01-000.87 (23A078), locally known as Right Fork Buffalo Creek Bridge 3, carrying CR 16/1 over the Right Fork of Buffalo Creek in Logan County, the 'U.S. Army SP4 Warner Ray Osborne Memorial Bridge'. "

Whereas, Warner Ray Osborne was born on January 2, 1943, to Elmer and Ruth Osborne in Three Forks, Logan County, West Virginia; and

Whereas, Warner Ray Osborne died on June 12, 2019, a life-long resident of Logan County; and

Whereas, Warner Ray Osborne enlisted in the U.S. Army on July 24, 1961, and completed Basic Combat Training at the Airborne School in Fort Campbell, Kentucky; and

Whereas, Warner Ray Osborne worked as an Army lineman, attained the rank of SP/4 E-4 (T), and received an Expert Badge for Rifle, letter of Commendation, and a Parachutist Badge during his service before his honorable discharge on July 23, 1964; and

Whereas, Following his military service, SP4 Warner Ray Osborne returned to the Accoville area of Logan County, West Virginia, where he worked in coal mining for more than 30 years and cared for his family, including his wife of 47 years, Quindora Marie Linville Osborne; and

Whereas, SP4 Warner Ray Osborne and Quindora Marie Linville Osborne had three daughters: Darlene Sue Osborne Davis, Melissa "Lisa" Osborne Gentry, and Kristy Bragg; several grandchildren and great-grandchildren; and

Whereas, SP4 Warner Ray Osborne served his country with honor and was cherished by his family, friends, and community; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army SP4 Warner Ray Osborne for his contributions to our state and country, and to his community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 23-016/01-000.87 (23A078), locally known as Right Fork Buffalo Creek Bridge 3, carrying CR 16/1 over the Right Fork of Buffalo Creek in Logan County, the "U.S. Army SP4 Warner Ray Osborne Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S. Army SP4 Warner Ray Osborne Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

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

S. C. R. 10 - "Requesting the Division of Highways name bridge number 55-010/00-031.60 (55A035), (37.66588, -81.57373) locally known as Jesse Bridge, carrying WV 10 over Laurel Fork in Wyoming County, the 'U.S. Air Force TSGT Franklin A. Bradford Bridge'."

Whereas, Franklin Abb Bradford, was born at the Stevens Hospital in Welch, West Virginia on March 21, 1950. He was the son of a coal miner and grew up in a coal camp house where he

graduated from Pineville High School in 1969. With the Vietnam War underway, Franklin Bradford voluntarily enlisted in the United States Air Force in the fall of 1969; and

Whereas, TSGT Franklin Abb Bradford spent his basic training at Lackland Air Force Base in San Antonio, Texas. He served his first tour of duty in the Southeast Asian theater of conflict. TSGT Franklin Bradford served with the civil engineering unit called Prime BEEF (Base Engineer Emergency Force), where he served as a machine gunner. Prime BEEF was a rapidly deployable squadron of specialized civil engineering unit members who provided a full range of engineering support for command operations; and

Whereas, TSGT Franklin Abb Bradford was stationed at Beale Air Force Base in California where he helped assemble the SR-71 Blackbird, an Air Force reconnaissance aircraft intended to operate at extreme velocities, altitudes, and temperatures, that played a key role in gathering intelligence during the Cold War; and

Whereas, TSGT Franklin Abb Bradford was stationed at the Ramstein Air Force Base in Germany and flew on international missions. After Shah Mohammad Reza Pahlavi was ousted from Iran on February 11, 1979, at the start of the Iranian Revolution, the Shah was welcomed into the United States for cancer treatments. In protest, Iranian students took over the U.S. Embassy in Tehran, holding Americans hostage for more than 440 days. Bradford took part in one of the airlift rescue missions for embassy members during what would become known as the Iranian hostage crisis; and

Whereas, TSGT Franklin Abb Bradford transferred to Charleston Air Force Base in South Carolina where he served as a quality control specialist for the mechanical air command, and then he transferred to the strategic air command at Randolph Air Force Base in San Antonio, Texas. Following his service in Texas, Bradford was sent to Kunsan Air Force Base in South Korea to a combat readiness unit, the 8th Fighter Wing, known as “The Wolf Pack”. This was a strategic unit trained and prepared to execute immediate air combat against any aggressors threating the United

States or South Korea. Bradford's final duty station was at Maxwell Air Force Base in Alabama where he worked as a manpower management technician; and

Whereas, TSGT Franklin Abb Bradford always made time to volunteer with local schools, the Special Olympics, and the Red Cross wherever he was stationed. While stationed in San Antonio, Pope John Paul II visited the city in September 1987 and conducted an outdoor mass with several thousand attendees, some of whom suffered the effects of the hot Texas sun. Bradford served with the Red Cross during the event, brought water and refreshments to attendees, and helped many who succumbed to the heat to shelter for assistance. The heart of a West Virginian is one of servitude and TSGT Franklin Abb Bradford displayed this quality whenever presented with the opportunity; and

Whereas, Upon retirement from the Air Force in 1991, TSGT Franklin Abb Bradford went back to school at Bluefield State College and earned a bachelor's degree, which allowed him to begin a career with the United States Department of Defense as a contract specialist with the Naval Sea Command and NASA. Bradford's duty station was at the Wright Patterson Air Force Base in Ohio. When a transfer opportunity opened for the Department of Defense in Blacksburg, Virginia, Bradford seized the chance to return home and moved to Princeton, West Virginia. He eventually worked with the Veterans Administration Hospital in Beckley, West Virginia as a contract specialist, and enjoyed his time serving the needs of fellow veterans; and

Whereas, It is fitting that an enduring memorial be established to commemorate TSGT Franklin Abb Bradford for his honorable service to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name Bridge Number: 55-010/00-031.60 (55A035), (37.66588, -81.57373) locally known as Jesse Bridge, carrying WV 10 over Laurel Fork in Wyoming County, the "U.S. Air Force TSGT Franklin A. Bradford Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S. Air Force TSGT Franklin A. Bradford Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is directed to forward a copy of this resolution to the commissioner of the Division of Highways.

A message from the Senate, by

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

S. C. R. 14 - "Requesting the Division of Highways name bridge number 20-060/00-028.94 (20A347), locally known as 13th St. Overpass, carrying US 60 over CR 60/18 in Kanawha County, the 'U.S. Army SSGT Elson M. Kuhn Memorial Bridge'."

Whereas, U.S. Army SSGT Elson Merrill Kuhn was born on September 28, 1921, in Bim, West Virginia, and attended Van High School. He served in the First Cavalry Division, U.S. Army, in the Pacific Theater, comprising the Philippines, New Guinea, New Caledonia, and the occupation force in Japan during World War II as duration duty orders, entering in 1942, and honorably discharged as a Staff Sergeant on January 14, 1946; and

Whereas, After serving in the U.S. Army for four years, SSGT Elson Merrill Kuhn returned to West Virginia to work for the coal industry and the industrial baseball league. He remained employed in the mining industry for a 40-year career as an electrician, after becoming licensed by the state and federal government; and

Whereas, Before U.S. Army, SSGT Elson Merrill Kuhn contributed significantly to the building and upkeep of Kanawha State Forest through his membership in the Civilian Conservation Corps, No. 2599 S76 Camp at Kanawha State Forest. He assisted in building the recreation areas and other infrastructure, including the dam, roads, fire towers, bridges, restrooms, picnic shelters, and

log home of the superintendent. Throughout his life, he also participated in raising funds, building shelters, replacing dilapidated foot bridges, and holding reunions at Kanawha State Forest; and

Whereas, U. S. Army SSGT Elson Merrill Kuhn died after a long illness on Tuesday, September 9, 2003, at Hubbard Hospice House in Charleston, West Virginia. He died at the age of 81, leaving behind a wife of 56 years, seven children, 11 grandchildren, eight great-grandchildren, two siblings, and many nieces and nephews; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army SSGT Elson M. Kuhn and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 20-060/00-028.94 (20A347), locally known as 13th St. Overpass, carrying US 60 over CR 60/18 in Kanawha County, the "U. S. Army SSGT Elson M. Kuhn Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army SSGT Elson M. Kuhn Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

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

S. C. R. 19 - "Requesting the Division of Highways name bridge number 30-003/05-014.73 (30A291), (37.89343,-

82.23993), locally known as the Kirk Beam Span Bridge, carrying County Route 3/5 over West Fork Twelvepole Creek in Mingo County, the 'U.S. Army PVT Thomas D. Beckett, Sr. Memorial Bridge'.

Whereas, PVT Thomas D. Beckett, Sr. was born October 14, 1909, at Kirk, Mingo County, West Virginia, to John J. Beckett and Polly Bailey. He lost both of his parents at a young age and began working in the coal mines of southern West Virginia at the age of fourteen; and

Whereas, On June 18, 1935, Thomas D. Beckett, Sr. married Brookie Dillon in Logan County, West Virginia. They settled in Peach Creek, Logan County. Thomas D. Beckett, Sr. and his wife were the parents of eleven children.

Whereas, Around 1939, Thomas D. Beckett, Sr. and his wife moved to Kirk, Mingo County, West Virginia where they would raise their family. Their home was located at Mudlick Branch. He continued working in the coal mines for several years. In 1940, he was employed by West Virginia Coal & Coke Corporation located in Omar, West Virginia. As a coal miner, he was injured several times; and

Whereas, PVT Thomas D. Beckett, Sr. served in the U.S. Army during World War II. He served in Company D, 27th Medical Training Battalion at Camp Grant, Illinois and received an honorable discharge on July 18, 1944. After returning home from the Army, PVT Thomas D. Beckett, Sr. was appointed Postmaster of Kirk, West Virginia on May 15, 1946. He served in this capacity until 1956. He was the last to serve in this position as the Kirk post office was discontinued January 27, 1956, effective February 24, 1956. In Kirk, PVT Thomas D. Beckett, Sr. also ran a grocery store called Beckett Grocery, which began on the front porch of his home. Eventually, he built a small building which housed the post office and his store in front of his home at Mudlick Branch. Both PVT Thomas D. Beckett, Sr. and his wife took care of anyone who needed help in the community allowing people to purchase groceries on credit and constantly lending a helping hand to their

neighbors. PVT Thomas D. Beckett, Sr. learned to become an auto mechanic at Charley White's Garage in Dingess, West Virginia. He also served as a deacon at Bailey Baptist Church located in Kirk, West Virginia.

Whereas, Around 1956, PVT Thomas D. Beckett, Sr. moved his family to Dunlow, Wayne County, where he operated another store which ultimately was lost to fire. He then used his auto mechanic training and opened an auto garage and filling station located across the road from his home.

Whereas, On July 30, 1976, PVT Thomas D. Beckett, Sr. was struck by a car in front of his home at Dunlow, West Virginia while walking across Route 152 to his garage. He was taken to Cabell Huntington Hospital where he passed away on August 1, 1976. He was 66 years old. He was the first to be buried on what would become the Beckett Family Cemetery; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Army Pvt. Thomas D. Beckett, Sr. and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 30-003/05-014.73 (30A291), (37.89343,-82.23993) locally known as the Kirk Beam Span Bridge, carrying County Route 3/5 over West Fork Twelvepole Creek in Mingo County, the "U.S. Army PVT Thomas D. Beckett, Sr. Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S. Army PVT Thomas D. Beckett, Sr. Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

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

S. C. R. 22 - "Requesting the Division of Highways name bridge number 27-40-6.15 (27A120), locally known as Upper Ninemile Bridge 6.15, carrying County Route 40 over Upper Ninemile Creek in Mason County, the 'U.S. Army PFC Clifford O. Eckard Memorial Bridge'."

Whereas, Clifford O. Eckard was born April 13, 1911, in Southside, Mason County, West Virginia; and

Whereas, PFC Clifford O. Eckard enlisted in the Army to serve his country and state during World War II; and

Whereas, PFC Clifford O. Eckard was assigned to the 82nd Airborne Division, H.Q.C.O 319th Glider FA BN during his time of service during World War II; and

Whereas, PFC Clifford O. Eckard passed away on June 7, 1988, as a World War II veteran who bravely defended his country and state during World War II; and

Whereas, It is fitting that an enduring memorial be established to commemorate PFC Clifford O. Eckard and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 27-40-6.15 (27A120), locally known as Upper Ninemile Bridge 6.15, carrying County Route 40 over Upper Ninemile Creek in Mason County, the "U.S. Army PFC Clifford O. Eckard Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge

as the "U.S. Army PFC Clifford O. Eckard Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

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

S. C. R. 26 - "Requesting the Division of Highways name bridge number 39-68/8-000.01 (39A234), locally known as King's Trees Bridge, carrying CR 68/8 over Interstate 68 in Preston County, the 'U.S. Army TEC5 William 'Bill' Thurman King Memorial Bridge'."

Whereas, William "Bill" Thurman King was born on June 24, 1925, in Bruceton Mills, Preston County, West Virginia; and

Whereas, In the 1940s, William "Bill" Thurman King was a Technician Fifth Grade, Battery A of the 364th Field Artillery in the United States Army, he was honorably discharged in 1946; and

Whereas, William "Bill" Thurman King was honored in his military service with the European-African-Middle Eastern Theater Ribbon, the Good Conduct Medal, the World War II Victory Ribbon, and the Army Occupation Medal (Germany); and

Whereas, From the late 1940s until the 1980s, William "Bill" Thurman King was a bus operator for the Preston County Board of Education; and

Whereas, It is fitting that an enduring memorial be established to commemorate TEC5 William "Bill" Thurman King and his contributions to his state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 39-68/8-000.01 (39A234), locally known as King's Trees Bridge, carrying County Route 68/8 over Interstate 68 in Preston County, the "U.S. Army TEC5 William 'Bill' Thurman King Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S. Army TEC5 William 'Bill' Thurman King Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

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

S. C. R. 36 - "Requesting the Division of Highways name bridge number 17-098/00-004.06 (17A348), locally known as V.A. Hospital Bridge, carrying WV 98 over Fitness Trail in Harrison County, the 'U.S.M.C. CPL Harry Edward Dean Jr., Memorial Bridge'."

Whereas, Harry Edward Dean, Jr., was educated during the era of the polio pandemic and received his degree in physical therapy in 1950, after being interrupted for his service in the U.S. Marine Corps during WW II. He served in the Pacific during WW II with combat tours in Okinawa, the Ryukyu Islands, and occupied China; and

Whereas, CPL Harry Edward Dean Jr., was one of the state's first physical therapists, advocate, and friend for thousands of West Virginia children with disabilities. He held a full-time job at the VA Medical Center in Clarksburg, West Virginia, while treating disabled children in his spare time, teaming with the Clarksburg

Rotary Club to launch the Children's Treatment Center in 1955; and

Whereas, CPL Harry Edward Dean Jr., while continuing his treatment of children with disabilities, was the first licensed physical therapist to open the St. Mary's Hospital Physical Therapy Department and, as the head physical therapist, he became the executive director of the Easter Seal Society in 1971; and

Whereas, CPL Harry Edward Dean Jr., began a two-week summer camping program in 1971 for children with disabilities at Camp Horseshoe, in Parsons, West Virginia. He mentored medical school students who served as counselors year after year, out of respect for his selfless passion, and in turn becoming life-long friends, inspiring dozens with the same selfless passion; and

Whereas, No fees were ever charged for any of the services provided at the Children's Treatment Center during the time CPL Harry Edward Dean Jr., was director because he and others raised the needed funds through private and corporate donations, grants, and trusts. He always said he was richly rewarded with the success of the children with disabilities he treated and gratitude of their families; and

Whereas, CPL Harry Edward Dean Jr., was a member of the American Physical Therapy Association and the West Virginia Physical Therapy Association, and was awarded the West Virginia Physical Therapy Pioneer Award in 2007; and

Whereas, It is fitting that an enduring memorial be established to commemorate CPL Harry Edward Dean Jr., and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17-098/00-004.06 (17A348), locally known as V.A. Hospital Bridge, carrying WV 98 over Fitness Trail in Harrison County, the "U.S.M.C. CPL Harry Edward Dean Jr., Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S.M.C. CPL Harry Edward Dean Jr., Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

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

S. C. R. 48 - "Requesting the Division of Highways name bridge number 13-060/29-000.01 (13A271) (37.99398, -80.74791), locally known as Reese Bridge, carrying CR 60/29 over Meadow River in Greenbrier County, the 'U.S. Army PFC Ronald Lee Berry Memorial Bridge'."

Whereas, PFC Ronald Lee Berry was born on March 26, 1950, in Rainelle, Greenbrier County. He was drafted into the U.S. Army, thus beginning his tour of duty during the Vietnam War. He held the rank of Private First Class and was a Combat Engineer, serving with the 1st Infantry Division, 1st Engineer Battalion; and

Whereas, PFC Ronald Lee Berry died on August 10, 1969, as a result of non-hostile action in South Vietnam, Binh Duong Province. He is honored at the Vietnam Veterans Memorial in Washington, D.C. with his name inscribed on the Vietnam Veterans Memorial Wall, Panel 20w, Line 121; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army PFC Ronald Lee Berry and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 13-060/29-000.01 (13A271), (37.99398, -

80.74791), locally known as Reese Bridge, carrying CR 60/29 over Meadow River in Greenbrier County, the "U.S. Army PFC Ronald Lee Berry Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U.S. Army PFC Ronald Lee Berry Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways. "; which was referred to the Committee on Rules.

Resolutions Introduced

Delegates Zukoff, Anderson, Barach, Bates, Boggs, Booth, Bridges, Brown, Burkhammer, Capito, Clark, Conley, Cooper, Criss, Crouse, Dean, Diserio, Doyle, Espinosa, Evans, Fast, Ferrell, Fleischauer, Fluharty, Forsht, Garcia, Gearheart, Graves, Griffith, Hansen, Hanshaw (Mr. Speaker), Hardy, Holstein, Honaker, Hornbuckle, Horst, Hott, Householder, Howell, D. Jeffries, Jennings, J. Kelly, Kimes, Linville, Longanacre, Lovejoy, Mallow, Mandt, Martin, Maynor, Miller, Nestor, Pack, Pinson, Pushkin, Queen, Reed, Riley, Rohrbach, Rowan, Rowe, Skaff, Smith, Statler, Steele, Storch, Summers, Sypolt, Thompson, Toney, Tully, Walker, Wamsley, B. Ward, G. Ward, Westfall, Williams, Worrell, Young and Zatezalo offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 17 - "Affirming support for Ukrainian sovereignty, the people of Ukraine, and their right to self-determination."

Whereas, Ukraine's population is overwhelmingly Christian, and the people of West Virginia support their right to continue to practice and spread the Christian faith, free of Russian violence and oppression; and

Whereas, The people of Ukraine and West Virginia have a shared love of freedom, independence, self-determination, and self-governance; and

Whereas, The 43.7 million people of Ukraine share an identity which is distinct and separate from Russia; and

Whereas, Approximately 77.8 percent of the Ukrainian population identify as Ukrainian, and only 17.3 percent of people in Ukraine identify as Russian; and

Whereas, The language, culture, and history of Ukraine is rich and distinct from Russian language, culture, and history; and

Whereas, Ukraine first declared independence from communist Russia in 1918; and

Whereas, Ukraine has enjoyed self-governance since its separation from the Soviet Union in August of 1991; and

Whereas, Ukraine ratified its most recent constitution in June of 1996; and

Whereas, Ukraine is recognized as a democratic republic and is governed by President Volodymyr Zelenskyy and Prime minister Denys Shmyhal; and

Whereas, The Ukrainian and West Virginian economies are driven by their abundance of natural resources; and

Whereas, The arable land in Ukraine is significantly larger than that in Russia, and should be used and enjoyed by the people of Ukraine, not exploited by the Russian government to expand its own power; and

Whereas, Persistent Russian interference and aggression weaken Ukrainian growth and investments; and

Whereas, Ukraine is the largest Eastern European country, making the retention of its independence from Russia a security interest of the United States and NATO; and

Whereas, A threat to the sovereign borders of Ukraine is a threat to all Western Democracies; and

Whereas, President Putin is an unstable, unpredictable threat to Europe, NATO, and its allies; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates stands in solidarity with the people of Ukraine in their fight against Russian oppression, aggression, and annexation; and, be it

Further Resolved, That the Clerk of the House forward a copy of this Resolution to the Ukrainian Embassy in Washington, DC.

Special Calendar

Third Reading

Com. Sub. for S. B. 524, Placing duties and functions of certain boards and commissions under Department of Arts, Culture, and History; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 375)**, and there were—yeas 67, nays 23, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Cooper, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, J. Kelly, Paynter, Pethtel, Pushkin, Rowe, Skaff, Walker, G. Ward, Williams, Young, Zatezalo and Zukoff.

Absent and Not Voting: Espinosa, Householder, Linville, Martin, McGeehan, Nestor, Storch, Thompson, Westfall and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 524) passed.

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

Com. Sub. for S. B. 650, Eliminating number of royalty owners required for utilization by operator for lawful use and development by co-tenants; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 376)**, and there were, including pairs—yeas 72, nays 21, absent and not voting 7, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Westfall Nay: Zukoff

Nays: Barach, Brown, Crouse, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Griffith, Hansen, Paynter, Pethtel, Pushkin, Rowe, Summers, Thompson, Walker, Williams and Young.

Absent and Not Voting: Espinosa, Householder, Martin, McGeehan, Nestor, Storch and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 650) passed.

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

Second Reading

Com. Sub. for S. B. 515, Supplementing and amending appropriations of public moneys to Department of Administration, Public Defender Services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 517, Expiring funds from unappropriated balance in State Excess Lottery Revenue Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 525, Expiring funds from unappropriated balance in Lottery Net Profits; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 526, Supplementing and amending appropriations to Department of Commerce, Office of Secretary; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 527, Supplementing and amending appropriations to Department of Administration, Office of Technology; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 531, Increasing annual salaries of certain state employees; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk, on page two, section five, by striking out the language on lines twenty-one through page four, line seventy in its entirety and inserting in lieu thereof the following:

"ANNUAL SALARY SCHEDULE (BASE PAY)

SUPERVISORY AND NONSUPERVISORY RANKS

Cadet During Training	~~$ 38,524~~	$48,524
Cadet Trooper After Training	~~45,784~~	55,784
Trooper Second Year	~~46,796~~	56,796
Trooper Third Year	~~47,179~~	57,179
Senior Trooper	~~47,578~~	57,578
Trooper First Class	~~48,184~~	58,184
Corporal	~~48,790~~	58,790
Sergeant	~~53,091~~	63,091

First Sergeant	~~55,242~~	65,242
Second Lieutenant	~~57,392~~	67,392
First Lieutenant	~~59,543~~	69,543
Captain	~~61,694~~	71,694
Major	~~63,844~~	73,844
Lieutenant Colonel	~~65,995~~	75,995

ANNUAL SALARY SCHEDULE (BASE PAY)

ADMINISTRATION SUPPORT SPECIALIST CLASSIFICATION

I	~~$46,796~~	$56,796
II	~~47,578~~	57,578
III	~~48,184~~	58,184
IV	~~48,790~~	58,790
V	~~53,091~~	63,091
VI	~~55,242~~	65,242
VII	~~57,392~~	67,392
VIII	~~59,543~~	69,543

~~Beginning on July 1, 2021~~ Effective July 1, 2022, designated individuals within the forensic laboratory shall receive annual base salaries payable at least twice per month as follows:

ANNUAL SALARY SCHEDULE (BASE PAY)

EVIDENCE CUSTODIAN

I	~~$35,650~~	$45,650
II	~~37,978~~	47,978

III	~~41,639~~	51,639
IV	~~44,666~~	54,666
FORENSIC TECHNICIAN		
I	~~$37,850~~	$47,850
II	~~39,544~~	49,544
III	~~43,426~~	53,426
FORENSIC SCIENTIST		
I	~~$45,050~~	$55,050
II	~~47,234~~	57,234
III	~~49,338~~	59,338
IV	~~51,737~~	61,737
V	~~55,263~~	65,263
VI	~~59,063~~	69,063
FORENSIC SCIENTIST SUPERVISOR		
I	~~$61,762~~	$71,762
II	~~65,326~~	75,326
III	~~69,104~~	79,104
IV	~~73,108~~	83,108".

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

The yeas and nays having been ordered, they were taken **(Roll No. 377)**, and there were—yeas 90, nays 1, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Gearheart.

Absent and Not Voting: Brown, Espinosa, Householder, Martin, McGeehan, Nestor, Storch, Westfall and Worrell.

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

The bill was then ordered to third reading.

S. B. 626, Supplementing, amending, and increasing existing items of appropriation from State Road Fund to DOT, DMV; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 627, Supplementing, amending, and increasing existing item of appropriation from State Road Fund to DOT, DOH; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 628, Supplementing and amending appropriations to Department of Commerce, DNR; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 629, Supplementing and amending appropriations to Department of Education, WV BOE, Vocational Division; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 630, Supplementing and amending appropriations to Higher Education Policy Commission, Administration – Control Account; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 636, Supplementing and amending appropriations to Department of Revenue, Office of Tax Appeals; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 637, Supplementing and amending appropriations to Executive, Governor's Office – Civil Contingent Fund; on second reading, coming up in regular order, was read a second time.

Delegate Foster asked and obtained unanimous consent that his amendment be withdrawn.

The bill was then ordered to third reading.

First Reading

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

Com. Sub. for S. B. 181, Creating Core Behavioral Health Crisis Services System,

S. B. 213, Establishing licensed professional counseling compact,

Com. Sub. for S. B. 274, Requiring secretary of DHHR to allocate CPS workers by Bureau of Social Services' district annually,

Com. Sub. for S. B. 330, Authorizing DOT to promulgate legislative rules,

S. B. 427, Permitting WV Board of Medicine investigators to carry concealed weapon,

Com. Sub. for S. B. 466, Relating to limitations on civil actions or appeals brought by inmates,

S. B. 493, Requiring county BOE make meetings available to public in-person and through internet,

Com. Sub. for S. B. 505, Updating laws on licensure and regulation of money transmitters,

Com. Sub. for S. B. 522, Combining offices of WV State Americans with Disabilities Act and WV Equal Employment Opportunity,

Com. Sub. for S. B. 553, Relating to powers of WV Health Care Authority,

Com. Sub. for S. B. 575, Ensuring that imposition of certain sexual offenses apply to persons working in juvenile facilities,

Com. Sub. for S. B. 593, Allowing Marshall University's Forensic Analysis Laboratory access and participation in WV DNA database for certain purposes,

S. B. 603, Prohibiting licensure and re-licensure in WV if applicant is prohibited from practicing in another jurisdiction,

Com. Sub. for S. B. 694, Relating to oil and gas conservation,

And,

Com. Sub. for H. B. 4023, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Espinosa, Householder, Martin, McGeehan, Nestor, Storch, Westfall and Worrell.

Miscellaneous Business

Pursuant to House Rule 132, consent was obtained to print the following in the Appendix to the Journal:

- Delegate Pritt regarding John Kogoy

At 10:38 a.m., the House of Delegates adjourned until 11:00 a.m., Monday, March 7, 2022.

Monday, March 7, 2022

FIFTY-FIFTH DAY

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

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

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

The Clerk proceeded to read the Journal of Saturday, March 5, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

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

Your Committee on Government Organization has had under consideration:

S. B. 253, Relating to voting precincts and redistricting,

And,

S. B. 492, Relating to electronic collection of tolls,

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

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 698, Relating to number and selection of members for Governor's Veterans Council,

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

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

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 704, Allowing parents, grandparents, and guardians to inspect instructional materials in classroom,

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

Delegate Criss, Vice Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 443, Including police and firefighter as electors of trustees for certain pension funds,

S. B. 478, Relating to Neighborhood Investment Program,

And,

S. B. 546, Expanding uses of fees paid by students at higher education institutions,

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

Delegate Criss, Vice Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 1, Creating Mining Mutual Insurance Company,

S. B. 529, Encouraging additional computer science education in WV schools,

Com. Sub. for S. B. 550, Relating to funding for higher education institutions,

Com. Sub. for S. B. 571, Declaring certain claims to be moral obligations of state,

Com. Sub. for S. B. 584, Relating to WV Infrastructure and Jobs Development Council,

And,

Com. Sub. for S. B. 641, Requiring Consolidated Public Retirement Board to set contributions to Deputy Sheriff's Retirement System,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 231, Relating generally to broadband connectivity,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 6, Establishing common law "veil piercing" claims not be used to impose personal liability,

Com. Sub. for S. B. 245, Revising wage payment and collection,

Com. Sub. for S. B. 543, Creating Unemployment Compensation Insurance Fraud Unit within Workforce WV,

And,

S. B. 570, Establishing training for law-enforcement in handling individuals with Alzheimer's and dementias,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 486, Allowing PERS retirees to designate special needs trust as beneficiary,

And reports the same back, with the recommendation that it do pass, and with the recommendation that second reference to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 486) to the Committee on Finance was abrogated.

Resolutions Introduced

Delegates Linville, Maynard, Paynter, Dean, Haynes, Cooper, Kessinger, Fast, Hott, Rohrbach, D. Jeffries, Anderson, Barnhart, Booth, Conley, Crouse, Doyle, Ellington, Ferrell, Foster, Gearheart, Holstein, Honaker, Horst, J. Kelly, Kimble, Kimes, Longanacre, Mallow, Mandt, Martin, Nestor, Rowan, Rowe, Smith, Statler, Storch, Sypolt, G. Ward, Williams and Worrell offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 18 - "A resolution encouraging the additional supply of West Virginia coal to Europe."

Whereas, Russia has committed a crime of aggression by invading Ukraine and seeking to expand its borders through offensive military action; and

Whereas, Because Russia is a major energy exporter, international response to the unparalleled act of aggression has been muted due to concerns that boycotts of Russian energy exports would worsen international energy shortages generally and European energy deficiencies specifically; and

Whereas, International sales of energy are major sources of revenue for Russia and are financing the invasion of Ukraine; and

Whereas, Russia currently supplies 30 percent of the metallurgical coal used by European steelmakers and 60% of the thermal coal used to generate electricity; and

Whereas, Coal-fired electric generation in Europe has been critical for the region's economy and its health and safety over the last year as the continent suffered from shortages of natural gas coupled with under-performing intermittent / renewable energy sources; and

Whereas, Europe has a dependency on Russia for over 40 million tons of coal annually; and

Whereas, Europe was already planning to lean more heavily on its coal fired generation assets to compensate for limited natural gas supplies from Russia, but is now faced with the prospect of sourcing some 40 million tons of thermal coal to offset the Russian supply; and

Whereas, To appropriately confront Russia's hostility in Ukraine, other sources of energy must be provided to our allies in Europe; and

Whereas, West Virginia coal, already preferred by European power and steel makers for its quality and stable supply history, can offset that continent's need for Russian coal; and

Whereas, If natural gas supplies are further disrupted, coal fired power plants can generate more electricity to offset the lost generation from natural gas plants; and

Whereas, West Virginia coal can even be converted to liquid fuels to address oil and diesel fuel shortages; and

Whereas, Providing additional West Virginia coal to Europe will require the cooperation of the coal industry, railroad companies, river transportation firms, permitting and regulatory agencies; therefore, be it

Resolved by the House of Delegates:

That to provide "freedom fuel" to our allies across the globe, to free Europe from the chains of Russian energy dependence, the West Virginia House of Delegates hereby calls upon all of these entities to cooperatively work to supply more West Virginia coal to international markets.

Delegates Howell, Cooper, Dean, Ellington, Foster, Hamrick, Hanshaw (Mr. Speaker), Haynes, Holstein, Hott, Linville, Maynard, Paynter, Statler, Steele and Tully offered the following resolution, which was read by its title and referred to the Committee on Government Organization then Rules:

H. C. R. 98 - "Requesting the Joint Committee on Government and Finance study moving the Alcohol Beverage Control Administration into the purview of the West Virginia Lottery Commission."

Whereas, The West Virginia Alcohol Beverage Control Administration and the West Virginia Lottery Commission share many of the same duties and responsibilities in carrying out their respective duties across the State of West Virginia; and

Whereas, The West Virginia Alcohol Beverage Control Administration is already housed in the West Virginia Lottery building, and would not have to move locations under a proposed move; and

Whereas, As it presently stands in West Virginia, a business may not sell West Virginia lottery games, drawings and tickets without holding an alcohol license issued by the West Virginia Alcohol Beverage Control Administration; and

Whereas, Inspectors for both the West Virginia Alcohol Beverage Control Administration and the West Virginia Lottery Commission can easily be combined by cross training, which would reduce the size of government; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study moving the Alcohol Beverage Control Administration into the purview of the West Virginia Lottery Commission; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Skaff, Young, Dean and Barach offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 99 - "Requesting the Division of Highways name a bridge bearing the Bridge Number: 20-N14/80-000.1 (20A928), (38.36406,-81.69170) locally known as CENTRAL AVENUE OVERPASS, carrying City N14/80 over CSX RR & FIRST AVENUE in Kanawha County,' as the 'Lt. Col. Mitchell M. Mickel Memorial Bridge'."

Whereas, Mitchell M. Mickel was born on March 25, 1922, in Kfeir, Lebanon; and

Whereas, Mitchell M. Mickel's father, Abe Mickel, was a naturalized citizen of the United States who earned his citizenship by serving in the Army during World War I; and

Whereas, In 1921, Abe Mickel went back to the "old country" of Lebanon to bring members of his family to the United States, and in 1922, Mitchel M. Mickel was born; and

Whereas, Mitchell M. Mickel and his family returned to the United States in 1923, where they made their home in Williamson, West Virginia in Mingo County; and

Whereas, Mitchell M. Mickel and his two brothers and sister grew up in the small town that was rich in Lebanese culture, as many other descendants from Kfeir, Lebanon, settled in Williamson, West Virginia; and

Whereas, Mitchell M. Mickel and his family made their living in their family owned store, "Mickel's Confectionary," in the heart of the town; and

Whereas, Mitchell M. Mickel was educated in the Mingo County public school system, graduating from Williamson High School in 1941; and

Whereas, Mitchell M. Mickel began his college career by attending West Virginia University; and

Whereas, Mitchell M. Mickel enlisted in the Army in August of 1942, and was awarded the Purple Heart and the Bronze Star for the battle of Anzio, Italy, where he was hit by shrapnel and wounded; and

Whereas, Mitchell M. Mickel was honorably discharged from the Army in December of 1945; and

Whereas, Mitchell M. Mickel returned to West Virginia and graduated from West Virginia University in 1948 with a Bachelor of Arts degree in Economics; and

Whereas, Mitchell M. Mickel immediately entered the Air Force Reserves, and later in April of 1951, he joined the Air Force; and

Whereas, Mitchell M. Mickel had a military career that spanned over 25 years across two branches; and

Whereas, During his time in the Air Force, Mitchell M. Mickel served in many capacities as he worked his way up through the ranks to Lieutenant Colonel in December, 1967; and

Whereas, In June of 1970, following Mitchell M. Mickel's retirement from the Air Force, he proudly returned home to West Virginia, settling down in South Charleston; and

Whereas, Mitchell M. Mickel then went to work for the Internal Revenue Service for many years, eventually retiring from there and going on to work for the Armed Forces as a Test Coordinator administering entrance exams; and

Whereas, Mitchell M. Mickel was a true volunteer, and during his time with the Internal Revenue Service, he would spend every Saturday morning volunteering at the public library to assist the people with their tax questions; and

Whereas, Mitchell M. Mickel was the President of the Retired Officers Association for several years; and

Whereas, Mitchell M. Mickel also held many important volunteer positions for the Kfeirian Reunion, a family organization made up of descendants from Kfier, Lebanon, which is now in its 88th year; and

Whereas, Sadly, at the age of 85 in January 2008, Mitchell M. Mickel passed away, and was laid to rest in Arlington National Cemetery on his birth date of March 25 with full military honors; and

Where, Mitchell M. Mickel's final resting place is the perfect place in the cemetery for him, because it is nestled in Section 64 of the Arlington National Cemetery and overlooks the Pentagon, and to the other side of his resting place, the tall spires of the Air Force Monument can be seen towering over the cemetery; and

Whereas, Mitchell M. Mickel had a long and distinguished military career, serving during three wars, including World War II, the Korean War, and the Vietnam War; and

Whereas, Mitchell M. Mickel received the following military awards: Good Conduct Medal, Purple Heart Medal, European African Middle Eastern Service Ribbon with Bronze Arrowhead, Meritorious Unit Award, World War II Victory Ribbon, Combat Infantryman Badge, Bronze Star Medal, Air Force Reserve Medal, AF Outstanding Unit Award, Small Arms Expert Marksmanship Ribbon, AF Longevity Service Award Ribbon with 4 Bronze Oak Leaf Clusters, AF Commendation Medal, and National Defense Service Medal with Bronze Service Star; and

Whereas, For these reasons it is fitting and proper that the bridge be named in honor of Lt. Col. Mitchell M. Mickel; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a bridge bearing the Bridge Number: 20-N14/80-000.1 ()(20A928), (38.36406,-81.69170) locally known as CENTRAL AVENUE OVERPASS, carrying City N14/80 over CSX RR & FIRST AVENUE in Kanawha County," as the "Lt. Col. Mitchell M. Mickel Memorial Bridge", and, be it

Further Resolved, That the Commissioner of the Division of Highways is requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge as the "Lt. Col. Mitchell M. Mickel Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the Commissioner of the Division of Highways and to the family of Mitchell M. Mickel.

Special Calendar

Third Reading

Com. Sub. for S. B. 515, Supplementing and amending appropriations of public moneys to Department of Administration,

Public Defender Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 378)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hansen and Hardy.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 515) passed.

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

On this question, the yeas and nays were taken **(Roll No. 379)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hansen and Hardy.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 515) takes effect from its passage.

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

S. B. 517, Expiring funds from unappropriated balance in State Excess Lottery Revenue Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 380)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hansen and Hardy.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 517) passed.

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

On this question, the yeas and nays were taken **(Roll No. 381)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hansen and Hardy.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 517) takes effect from its passage.

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

S. B. 525, Expiring funds from unappropriated balance in Lottery Net Profits; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 382)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hansen and Hardy.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 525) passed.

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

On this question, the yeas and nays were taken **(Roll No. 383)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hansen and Hardy.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 525) takes effect from its passage.

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

S. B. 526, Supplementing and amending appropriations to Department of Commerce, Office of Secretary; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 384)**, and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Hansen and Hardy.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 526) passed.

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

On this question, the yeas and nays were taken **(Roll No. 385)**, and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Hansen and Hardy.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 526) takes effect from its passage.

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

S. B. 527, Supplementing and amending appropriations to Department of Administration, Office of Technology; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 386)**, and there were—yeas 96, nays 2, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: McGeehan and Paynter.

Absent and Not Voting: Hansen and Hardy.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 527) passed.

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

On this question, the yeas and nays were taken **(Roll No. 387)**, and there were—yeas 96, nays 2, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: McGeehan and Paynter.

Absent and Not Voting: Hansen and Hardy.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 527) takes effect from its passage.

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

S. B. 531, Increasing annual salaries of certain state employees; on third reading, coming up in regular order, was read a third time.

Delegates Barnhart, Criss, Dean, Evans, Ferrell, Haynes, Howell, Householder, Keaton, Linville, Longanacre, Mandt, Maynor, Summers, Thompson, Toney, B. Ward, Westfall and Zukoff requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegates were members of a class of persons possibly to be affected and directed the Members to vote.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 388)**, and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Hansen, Hardy and Mazzocchi.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 531) passed.

Delegate Summers moved that the bill take effect July 1, 2022.

On this question, the yeas and nays were taken **(Roll No. 389)**, and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Hansen, Hardy and Mazzocchi.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 531) takes effect July 1, 2022.

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

S. B. 626, Supplementing, amending, and increasing existing items of appropriation from State Road Fund to DOT, DMV; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 390)**, and there were—yeas 95, nays 3, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Foster, McGeehan and Pritt.

Absent and Not Voting: Hansen and Hardy.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 626) passed.

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

On this question, the yeas and nays were taken **(Roll No. 391)**, and there were—yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Hansen, Hardy and Reed.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 626) takes effect from its passage.

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

S. B. 627, Supplementing, amending, and increasing existing item of appropriation from State Road Fund to DOT, DOH; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 392)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hansen and Hardy.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 627) passed.

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

On this question, the yeas and nays were taken **(Roll No. 393)**, and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Hansen and Hardy.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 627) takes effect from its passage.

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

S. B. 628, Supplementing and amending appropriations to Department of Commerce, DNR; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 394)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hansen and Hardy.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 628) passed.

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

On this question, the yeas and nays were taken **(Roll No. 395)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hansen and Hardy.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 628) takes effect from its passage.

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

S. B. 629, Supplementing and amending appropriations to Department of Education, WV BOE, Vocational Division; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 396)**, and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: J. Jeffries.

Absent and Not Voting: Hansen and Hardy.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 629) passed.

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

On this question, the yeas and nays were taken **(Roll No. 397)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hansen and Hardy.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 629) takes effect from its passage.

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

S. B. 630, Supplementing and amending appropriations to Higher Education Policy Commission, Administration – Control Account; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 398)**, and there were—yeas 95, nays 3, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Foster, J. Jeffries and Paynter.

Absent and Not Voting*: Hansen and Hardy.

[*Note: Delegate Walker announced that her vote did not register and is included in the "yeas".]

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 630) passed.

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

On this question, the yeas and nays were taken **(Roll No. 399)**, and there were—yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Paynter.

Absent and Not Voting: Graves, Hansen and Hardy.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 630) takes effect from its passage.

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

S. B. 636, Supplementing and amending appropriations to Department of Revenue, Office of Tax Appeals; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 400)**, and there were—yeas 67, nays 30, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Barach, Burkhammer, Conley, Crouse, Dean, Ellington, Foster, Gearheart, Hamrick, Holstein, Hornbuckle, Horst, Hott, D. Jeffries, J. Jeffries, Kimble, Kimes, Linville, Longanacre, Mandt, Mazzocchi, McGeehan, Paynter, Pinson, Pritt, Steele, Tully, Wamsley, G. Ward and Young.

Absent and Not Voting: Graves, Hansen and Hardy.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 636) passed.

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

On this question, the yeas and nays were taken **(Roll No. 401)**, and there were—yeas 86, nays 11, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Gearheart, Horst, Kimble, Linville, Longanacre, Mandt, Mazzocchi, McGeehan, Paynter, Pritt and G. Ward.

Absent and Not Voting: Graves, Hansen and Hardy.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 636) takes effect from its passage.

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

S. B. 637, Supplementing and amending appropriations to Executive, Governor's Office – Civil Contingent Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 402)**, and there were—yeas 89, nays 8, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Conley, Foster, Gearheart, Horst, Kimble, Kimes, McGeehan and Paynter.

Absent and Not Voting: Hansen, Hardy and Pritt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 637) passed.

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

On this question, the yeas and nays were taken **(Roll No. 403)**, and there were—yeas 90, nays 6, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Conley, Foster, Gearheart, Horst, Kimble and McGeehan.

Absent and Not Voting: Bridges, Hansen, Hardy and Pritt.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 637) takes effect from its passage.

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

Second Reading

Com. Sub. for S. B. 181, Creating Core Behavioral Health Crisis Services System; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 213, Establishing licensed professional counseling compact; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 250, Budget Bill; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Summers, and by unanimous consent, the bill was advanced to third reading with amendment pending and the rule was suspended to permit the consideration of the amendment on that reading.

The bill was then ordered to third reading.

Com. Sub. for S. B. 274, Requiring secretary of DHHR to allocate CPS workers by Bureau of Social Services' district annually; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk, and adopted on page 6, line 121, by striking subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) The secretary shall annually allocate Child Protective Services workers by districts of the Bureau for Social Services and report the allocation process to the Legislative Oversight Commission on Health and Human Resources Accountability by July 1 each year."

The bill was then ordered to third reading.

Com. Sub. for S. B. 330, Authorizing DOT to promulgate legislative rules; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 427, Permitting WV Board of Medicine investigators to carry concealed weapon; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 466, Relating to limitations on civil actions or appeals brought by inmates; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 493, Requiring county BOE make meetings available to public in-person and through internet; on second reading, coming up in regular order, was, at the request of Delegate Summers, and by unanimous consent, postponed one day.

Com. Sub. for S. B. 505, Updating laws on licensure and regulation of money transmitters; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 522, Combining offices of WV State Americans with Disabilities Act and WV Equal Employment Opportunity; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 553, Relating to powers of WV Health Care Authority; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 575, Ensuring that imposition of certain sexual offenses apply to persons working in juvenile facilities; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 593, Allowing Marshall University's Forensic Analysis Laboratory access and participation in WV DNA database for certain purposes; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 603, Prohibiting licensure and re-licensure in WV if applicant is prohibited from practicing in another jurisdiction; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 694, Relating to oil and gas conservation; on second reading, coming up in regular order, was, on motion of Delegate Summers, postponed one day.

Com. Sub. for H. B. 4023, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution; on second reading, coming up in regular order, was read a second time.

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

First Reading

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

S. B. 135, Relating to acquisition and disposition of property by urban development authority,

S. B. 440, Establishing Uniform Commercial Real Estate Receivership Act,

Com. Sub. for S. B. 470, Relating generally to health care decisions,

Com. Sub. for S. B. 508, Requiring certain attire for deer hunters with muzzleloaders,

Com. Sub. for S. B. 535, Providing for revocation of school personnel certification or licensure in certain circumstances,

S. B. 591, Relating to process for filling vacancies in state Legislature,

Com. Sub. for S. B. 595, Relating to Dangerousness Assessment Advisory Board,

And,

Com. Sub. for S. B. 616, Relating to confidentiality of court files and law-enforcement records of certain enumerated offenses.

Leaves of Absence

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

Miscellaneous Business

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegates Barrett and D. Kelly regarding S. B. 531

- Delegate Sypolt regarding a citation for military escorts

At 12:49 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, March 8, 2022.

Tuesday, March 8, 2022

FIFTY-SIXTH DAY

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

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

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

The Clerk proceeded to read the Journal of Monday, March 7, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that S. B. 250 on Third Reading, Special Calendar, had been moved to the foot of all bills; and S. B. 493 on Second Reading, Special Calendar had been moved to the House Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 232, Relating to punishment for third offense felony,

And,

Com. Sub. for S. B. 606, Relating to WV Medical Practice Act,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 29, Providing fee for processing of criminal bonds,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 29) was referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 312, Authorization for Department of Revenue to promulgate legislative rules,

Com. Sub. for S. B. 334, Authorizing miscellaneous agencies and boards to promulgate rules,

S. B. 548, Authorizing Workforce WV employers to obtain employment classifications and work locations,

And,

Com. Sub. for S. B. 659, Relating to nonintoxicating beer, wine, and liquor licenses and requirements,

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

On motion of Delegate Steele, Com. Sub. for S. B. 334 was recommitted to the Committee on Government Organization.

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 246, Requiring newly constructed public schools and public schools with major improvements to have water bottle filling stations,

Com. Sub. for S. B. 262, Relating generally to financial institutions engaged in boycotts of energy companies,

And,

Com. Sub. for S. B. 438, Relating generally to WV Security for Public Deposits Act,

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

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 228, Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV,

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

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 205, Expanding PEIA Finance Board membership,

Com. Sub. for S. B. 264, Relating to conservation districts law of WV,

And,

Com. Sub. for S. B. 609, Allowing DOH Commissioner to accept ownership of rented and leased equipment,

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

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

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 653, Relating to public higher education governance,

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

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

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 498, Creating Anti-Racism Act of 2022,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on the Judiciary be dispensed with.

The Speaker then referred the bill (Com. Sub. for S. B. 498) to the Committee on the Judiciary.

Messages from the Senate

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4282, Relating to establishing next generation 911 services in this state.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 4286, Relating to exempting persons employed as attorneys from the civil service system.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 4291, Relating to authorizing legislative rules regarding higher education.

A message from the Senate, by

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

Com. Sub. for H. B. 4295, To transfer the State Office of the National Flood Insurance Program from the Offices of the Insurance Commissioner to the Division of Emergency Management.

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

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

"**CHAPTER 15. PUBLIC SAFETY.**

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-20b. Continuation of the State Office of the National Flood Insurance Program; transfer to the Division of Emergency Management; funding; responsibilities.

(a) The Legislature, finding that the National Flood Insurance Program is a voluntary federal program under which federal flood insurance is made available to participating communities and is of vital importance to the citizens of West Virginia, does hereby continue the State Office of the National Flood Insurance Program. Effective July 1, 2022, the State Office of the National Flood Insurance Program shall transfer from the Offices of the Insurance

Commissioner to the Division of Emergency Management established pursuant to §15-5-3 of this code. The Division of Emergency Management shall provide office space, equipment, and supplies for the State Office of the National Flood Insurance Program, which shall be funded, in part, from the special revenue fund established in §33-3-14(c) of this code.

(b) The State Office of the National Flood Insurance Program shall issue guidance and instructions as necessary to administer the program effectively. The State Office of the National Flood Insurance Program shall offer and conduct training as required by §15-5-20a of this code and adopt adequate land use and development criteria that are consistent with the minimum standards established by the National Flood Insurance Program. The State Office of the National Flood Insurance Program shall be under the supervision of the Director of the Division of Emergency Management who shall employ staff as needed to operate the program.

(c) The Director of the Division of Emergency Management may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code as necessary to administer the State Office of the National Flood Insurance Program and any of the program's responsibilities. Any state-owned property located in a non-participating local community shall be governed by rules proposed by the Director of the Division of Emergency Management.

(d) The State Office of the National Flood Insurance Program, in consultation with the Director of the Division of Emergency Management, and with the assistance of floodplain managers around the state, shall develop and publish a strategic plan to establish shared goals, define a path to meet those goals, and shall invite other governmental units to adopt these goals and objectives. The strategic plan shall be initially presented by the Director of the Division of Emergency Management to the State Resiliency Officer and to the State Resiliency Office Board who shall review and approve the strategic plan, and that plan shall be so presented and approved no less than biannually thereafter. The strategic plan shall be made available to the public.

(e) The State Office of the National Flood Insurance Program shall establish floodplain management guidelines for any state property in special hazard areas which, at a minimum, satisfy the criteria set forth in 44 CFR §§60.3, 60.4, and 60.5 (2022).

(f) Notwithstanding any other provision of this code to the contrary, the State Office of the National Flood Insurance Program shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties.

CHAPTER 33. INSURANCE.

ARTICLE 2. INSURANCE COMMISSIONER.

§33-2-23. ~~Creation~~ Transfer of assets of the State Office of the National Flood Insurance Program~~; responsibilities~~.

~~(a) The Legislature, finding that the National Flood Insurance Program is a voluntary federal program under which federal flood insurance is made available to participating communities is of vital importance to the citizens of West Virginia, does hereby create the State Office of the National Flood Insurance Program, to be housed in the office of the Insurance Commissioner of West Virginia, and which office shall administer this program.~~

~~(b) The State Office of the National Flood Insurance Program shall have a coordinator who shall issue such regulations, guidance, and instructions as necessary to effectively administer the program. The coordinator shall conduct trainings and will adopt and enforce adequate land use and development criteria that are consistent with the minimum standards established by the National Flood Insurance Program and shall report to the Insurance Commissioner.~~

~~(c) Any state-owned property that is located in a nonparticipating local community will be governed by the rules promulgated by the Insurance Commissioner and filed in the Code of State Rules.~~

~~(d) The coordinator, in consultation with the Insurance Commissioner, and with the assistance of floodplain managers around the state, shall develop and publish a strategic plan to~~

~~establish shared goals, define a path to meet those goals, and shall invite other governmental units to adopt these goals and objectives. The strategic plan shall be initially presented by the Coordinator to the State Resiliency Officer and to the State Resiliency Office Board who shall review and approve the strategic plan, and that plan shall be so presented and approved no less than biannually thereafter. The strategic plan shall be made available to the public.~~

~~(e) The coordinator shall establish and enforce flood plain management regulations for any state property in special hazard areas which, at a minimum, satisfy the criteria set forth in 44 CFR §§60.3, 60.4, and 60.5 (2019).~~

~~(f) Notwithstanding any other provision of this code to the contrary, the coordinator shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties~~

Effective July 1, 2022, the assets of the State Office of the National Flood Insurance Program, which Office has been transferred to the Division of Emergency Management pursuant to §15-5-20b of this code, are hereby assigned and transferred to the Division of Emergency Management. The Director of the Division of Emergency Management may decline certain assets from being transferred pursuant to this section if he or she believes the assets are unnecessary for the proper operation of the State Office of the National Flood Insurance Program.

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

§33-3-14. Annual financial statement and premium tax return; remittance by insurer of premium tax, less certain deductions; special revenue ~~fund~~ funds created.

(a) Every insurer transacting insurance in West Virginia shall file with the commissioner, on or before March 1, each year, a financial statement made under oath of its president or secretary and on a form prescribed by the commissioner. The insurer shall also, on or before March 1 of each year subject to the provisions of

§33-3-14c of this code, under the oath of its president or secretary, make a premium tax return for the previous calendar year on a form prescribed by the commissioner showing the gross amount of direct premiums, whether designated as a premium or by some other name, collected, and received by it during the previous calendar year on policies covering risks resident, located, or to be performed in this state and compute the amount of premium tax chargeable to it in accordance with the provisions of this article, deducting the amount of quarterly payments as required to be made pursuant to the provisions of §33-3-14c of this code, if any, less any adjustments to the gross amount of the direct premiums made during the calendar year, if any, and transmit with the return to the commissioner a remittance in full for the tax due. The tax is the sum equal to two percent of the taxable premium and also includes any additional tax due under §33-3-14a of this code. All taxes, except those received on write your own federal flood insurance premium taxes or private market flood insurance premium taxes, received by the commissioner shall be paid into the insurance tax fund created in §33-3-14(b) of this code. ~~*Provided,* That no later than June 30 of each year, $1,667,000 of the portion of taxes received by the commissioner from insurance policies for medical liability insurance as defined in §33-20F-3 of this code and from any insurer on its medical malpractice line shall be temporarily dedicated to replenishing moneys appropriated from the tobacco settlement account pursuant to §4-11A-2(c) of this code. Upon determination by the commissioner that these moneys have been fully replenished to the tobacco settlement account, the commissioner shall resume depositing taxes received from medical malpractice premiums as provided in §33-3-14(b) of this code~~

(b) There is created in the State Treasury a special revenue fund, administered by the treasurer, designated the "insurance tax fund". This fund is not part of the General Revenue Fund of the state. It consists of all amounts deposited in the fund pursuant to §33-3-14(a), §33-3-14a, §33-3-15, and §33-3-17 of this code, ~~except those received on write your own federal flood insurance premium taxes,~~ any appropriations to the fund, all interest earned from investment of the fund, and any gifts, grants, or contributions received by the fund: *Provided*, That this subsection shall not apply

to funds received on federal flood insurance premium taxes or private market flood insurance premium taxes, which are subject to §33-3-14(c) of this code. The treasurer shall, no later than the last business day of each month, transfer amounts from the insurance tax fund to the General Revenue Fund that the treasurer determines are not necessary for making premium tax refunds under this article or §33-43-1 *et seq.* of this code.

~~(c) After the transfers authorized in this section, the treasurer shall, no later than the last business day of each month, transfer amounts the treasurer determines are not necessary for making refunds under this article to the credit of the General Revenue Fund~~

~~(d)~~ (c) There is created in the State Treasury a special revenue fund, administered by the treasurer, designated the "flood insurance tax fund". This fund is not part of the General Revenue Fund of the state. All taxes collected pursuant to §33-3-14(a) of this code from federal flood insurance policy premium taxes or private market flood insurance premium taxes shall be deposited into the flood insurance tax fund. The flood insurance tax fund shall contain collections, any appropriations to the fund, and any gifts, grants, and contributions received. The Treasurer shall distribute funds from the flood insurance tax fund for the operations and responsibilities of the State Office of the National Flood Insurance Program, as provided in §15-5-20b of this code, for activities that promote and enhance floodplain management issues, and for subgrants to local units of government and other eligible entities after full consideration of the recommendations of the Division of Emergency Management.

~~(e) The treasurer is restricted to, and shall distribute from, the flood insurance tax fund for activities which promote and enhance flood plain management issues, and for subgrants to local units of government and other eligible entities after full consideration of the recommendations of the Office of Emergency Services~~

§33-3-14a. Additional premium tax.

For the purpose of providing additional revenue for the state General Revenue Fund, there is hereby levied and imposed, in

addition to the taxes imposed by §33-3-14 of this code, an additional premium tax equal to one percent of taxable premiums. Except as otherwise provided in this section, all provisions of this article relating to the levy, imposition, and collection of the regular premium tax imposed by §33-3-14 of this code shall be applicable to the levy, imposition, and collection of the additional tax imposed by this section. All moneys received from the additional tax imposed by this section, less deductions allowed by this article or §33-43-1 *et seq.* of this code for refunds and for costs of administration, shall be received by the commissioner and shall be paid by him or her into the State Treasury in accordance with §33-3-14(b) of this code for the benefit of the ~~state fund~~ General Revenue Fund: *Provided,* That ~~each year, the first $833,000 of the portion of taxes received by the commissioner from insurance policies for medical liability insurance as defined in section three, article twenty-f of this chapter and from any insurer on its medical malpractice line, shall be temporarily dedicated to replenishing moneys appropriated from the tobacco settlement account pursuant to subsection (c), section two, article eleven-a of chapter four of this code~~ moneys received pursuant to this section pertaining to federal flood insurance policy premium taxes or private market flood insurance premium taxes shall be deposited and distributed in accordance with §33-3-14(c) of this code. ~~Upon determination by the commissioner that these moneys have been fully replenished to the tobacco settlement account, the commissioner shall resume depositing taxes received from medical malpractice premiums as provided herein.~~"

And,

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

Com. Sub. for H. B. 4295 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-5-20b; to amend and reenact §33-2-23 of said code; and to amend and reenact §33-3-14 and §33-3-14a of said code, all relating to the State Office of the National Flood Insurance Program; transferring the State Office of the National Flood Insurance Program from the Offices of the Insurance Commissioner to the Division of Emergency Management; authorizing the Director of the Division of Emergency

Management to employ staff for the State Office of the National Flood Insurance Program; granting rule-making authority to the Division of Emergency Management; providing that state-owned property in any nonparticipating community shall be governed by rules proposed by the Division of Emergency Management; requiring the State Office of the National Flood Insurance Program and floodplain managers to develop a strategic plan to meet goals and objectives, which shall be reviewed and approved by the State Resiliency Officer and State Resiliency Board; requiring the State Office of the National Flood Insurance Program to establish floodplain management guidelines in special hazard areas which are in conformity with federal regulations; providing the State Office of the National Flood Insurance Program shall cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties; transferring the assets of the State Office of the National Flood Insurance Program from the Offices of the Insurance Commissioner to the Division of Emergency Management; deleting obsolete language concerning temporary tax dedication to the tobacco settlement account; providing that private market flood insurance premium taxes be treated like federal flood insurance premium taxes; correcting terminology; clarifying that the additional premium tax applies to flood insurance premiums; and requiring the State Treasurer to distribute funds from the flood insurance tax fund to finance the operations and responsibilities of the State Office of the National Flood Insurance Program and for subgrants.'

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 404)**, and there were—yeas 93, nays 3, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Kimes, Walker and Young.

Absent and Not Voting: Evans, Hardy, Hornbuckle and Longanacre.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4295) passed.

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

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

Com. Sub. for H. B. 4324, To update collaborative pharmacy practice agreements.

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

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

"**ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS AND PHARMACIES.**

§30-5-4. Definitions.

As used in this article:

~~(1)~~ "Ambulatory health care facility" includes any facility defined in ~~section one, article five-b, chapter sixteen~~ §16-5B-1 *et seq.* of this code, that also has a pharmacy, offers pharmacist care, or is otherwise engaged in the practice of pharmacist care.

~~(2)~~ "Active Ingredients" means chemicals, substances, or other components of articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in humans or animals or for use as nutritional supplements.

~~(3)~~ "Administer" means the direct application of a drug to the body of a patient or research subject by injection, inhalation, ingestion, or any other means.

~~(4)~~ "Board" means the West Virginia Board of Pharmacy.

~~(5)~~ "Board authorization" means a license, registration, or permit issued under this article.

~~(6)~~ "Chain Pharmacy Warehouse" means a permanent physical location for drugs ~~and/~~or devices that acts as a central warehouse and performs intracompany sales and transfers of prescription drugs or devices to chain pharmacies, which are members of the same affiliated group, under common ownership and control.

~~(7)~~ "Charitable clinic pharmacy" means a clinic or facility organized as a not-for-profit corporation that has a pharmacy, offers pharmacist care, or is otherwise engaged in the practice of pharmacist care and dispenses its prescriptions free of charge to appropriately screened and qualified indigent patients.

~~(8)~~ "Collaborative pharmacy practice" is that practice of pharmacist care where one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more physicians under written protocol where the pharmacist or pharmacists may perform certain patient care functions authorized by the physician or physicians under certain specified conditions and limitations.

~~(9)~~ "Collaborative pharmacy practice agreement" is a written and signed agreement, which is a physician directed approach, that is entered into between an individual physician or physician group, or for a medical provider in training where the agreement is signed by the supervising physician or chairperson of the medical department where the medical provider in training is practicing, and an individual pharmacist or pharmacists ~~and an individual patient or the patient's authorized representative who has given informed consent~~ that provides for collaborative pharmacy practice for the purpose of drug therapy management of a patient~~, which has been approved by the board, the Board of Medicine in the case of an allopathic physician or the West Virginia Board of Osteopathic Medicine in the case of an osteopathic physician~~.

~~(10)~~ "Common Carrier" means any person or entity who undertakes, whether directly or by any other arrangement, to transport property including prescription drugs for compensation.

~~(11)~~ "Component" means any active ingredient or added substance intended for use in the compounding of a drug product, including those that may not appear in such product.

~~(12)~~ "Compounding" means:

(A) The preparation, mixing, assembling, packaging, or labeling of a drug or device:

(i) As the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice for sale or dispensing; or

(ii) For the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; and

(B) The preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

~~(13)~~ "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for a consideration.

~~(14)~~ "Device" means an instrument, apparatus, implement or machine, contrivance, implant or other similar or related article, including any component part or accessory, which is required under federal law to bear the label, "Caution: Federal or state law requires dispensing by or on the order of a physician."

~~(15)~~ "Digital Signature" means an electronic signature based upon cryptographic methods of originator authentication, and computed by using a set of rules and a set of parameters so that the identity of the signer and the integrity of the data can be verified.

~~(16)~~ "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order,

including the preparation, verification, and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient.

~~(17)~~ "Distribute" or "Distribution" means to sell, offer to sell, deliver, offer to deliver, broker, give away, or transfer a drug, whether by passage of title, physical movement, or both. The term does not include:

(A) To dispense or administer;

(B) (i) Delivering or offering to deliver a drug by a common carrier in the usual course of business as a common carrier; or providing a drug sample to a patient by a practitioner licensed to prescribe such drug;

(ii) A health care professional acting at the direction and under the supervision of a practitioner; or the pharmacy of a hospital or of another health care entity that is acting at the direction of such a practitioner and that received such sample in accordance with the Prescription Drug Marketing Act and regulations to administer or dispense;

(iii) Intracompany sales.

~~(18)~~ "Drop shipment" means the sale of a prescription drug to a wholesale distributor by the manufacturer of the prescription drug or by that manufacturer's colicensed product partner, that manufacturer's third-party logistics provider, that manufacturer's exclusive distributor, or by an authorized distributor of record that purchased the product directly from the manufacturer or from one of these entities whereby:

(A) The wholesale distributor takes title to but not physical possession of such prescription drug;

(B) The wholesale distributor invoices the pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer such drug; and

(C) The pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer such drug receives delivery of the prescription drug directly from the manufacturer or from that manufacturer's colicensed product partner, that manufacturer's third-party logistics provider, that manufacturer's exclusive distributor, or from an authorized distributor of record that purchased the product directly from the manufacturer or from one of these entities.

~~(19)~~ "Drug" means:

(A) Articles recognized as drugs by the United States Food and Drug Administration, or in any official compendium, or supplement;

(B) An article, designated by the board, for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

(C) Articles, other than food, intended to affect the structure or any function of the body of human or other animals; and

(D) Articles intended for use as a component of any articles specified in paragraph (A), (B), or (C) of this subdivision.

~~(20)~~ "Drug regimen review" includes, but is not limited to, the following activities:

(A) Evaluation of the prescription drug orders and if available, patient records for:

(i) Known allergies;

(ii) Rational therapy-contraindications;

(iii) Reasonable dose and route of administration; and

(iv) Reasonable directions for use.

(B) Evaluation of the prescription drug orders and patient records for duplication of therapy.

(C) Evaluation of the prescription drug for interactions ~~and/~~or adverse effects which may include, but are not limited to, any of the following:

(i) Drug-drug;

(ii) Drug-food;

(iii) Drug-disease; and

(iv) Adverse drug reactions.

(D) Evaluation of the prescription drug orders and if available, patient records for proper use, including overuse and underuse and optimum therapeutic outcomes.

~~(21)~~ "Drug therapy management" means the review of drug therapy regimens of patients by a pharmacist for the purpose of evaluating and rendering advice to a physician regarding adjustment of the regimen in accordance with the collaborative pharmacy practice agreement. Decisions involving drug therapy management shall be made in the best interest of the patient. Drug therapy management is limited to:

(A) Implementing, modifying, and managing drug therapy according to the terms of the collaborative pharmacy practice agreement;

(B) Collecting and reviewing patient histories;

(C) ~~Obtaining and checking vital signs, including pulse, temperature, blood pressure and respiration~~ Performing patient evaluations that are mutually agreed upon in the collaborative agreement;

(D) Ordering screening laboratory tests that are dose related and specific to the patient's medication or are protocol driven and are also specifically set out in the collaborative pharmacy practice agreement between the pharmacist and physician.

~~(22)~~ "Electronic data intermediary" means an entity that provides the infrastructure to connect a computer system, hand-

held electronic device, or other electronic device used by a prescribing practitioner with a computer system or other electronic device used by a pharmacy to facilitate the secure transmission of:

(A) An electronic prescription order;

(B) A refill authorization request;

(C) A communication; or

(D) Other patient care information.

~~(23)~~ "E-prescribing" means the transmission, using electronic media, of prescription or prescription-related information between a practitioner, pharmacist, pharmacy benefit manager, or health plan as defined in 45 CFR §160.103, either directly or through an electronic data intermediary. E-prescribing includes, but is not limited to, two-way transmissions between the point of care and the pharmacist. E-prescribing may also be referenced by the terms "electronic prescription" or "electronic order".

~~(24)~~ "Electronic Signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

~~(25)~~ "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

~~(26)~~ "Emergency medical reasons" include, but are not limited to, transfers of a prescription drug by one pharmacy to another pharmacy to alleviate a temporary shortage of a prescription drug; sales to nearby emergency medical services, i.e., ambulance companies and firefighting organizations in the same state or same marketing or service area, or nearby licensed practitioners of prescription drugs for use in the treatment of acutely ill or injured persons; and provision of minimal emergency supplies of prescription drugs to nearby nursing homes for use in emergencies or during hours of the day when necessary prescription drugs cannot be obtained.

~~(27)~~ "Exclusive distributor" means an entity that:

(A) Contracts with a manufacturer to provide or coordinate warehousing, wholesale distribution, or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug; and

(B) Is licensed as a wholesale distributor under this article.

~~(28)~~ "FDA" means the Food and Drug Administration, a federal agency within the United States Department of Health and Human Services.

~~(29)~~ "Health care entity" means a person that provides diagnostic, medical, pharmacist care, surgical, dental treatment, or rehabilitative care but does not include a wholesale distributor.

~~(30)~~ "Health information" means any information, whether oral or recorded in a form or medium, that:

(A) Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse, and

(B) Relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual.

"Heath care system" means an organization of people, institutions, and resources that deliver health care services to meet the health needs of a target population.

~~(31)~~ "HIPAA" is the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

~~(32)~~ "Immediate container" means a container and does not include package liners.

~~(33)~~ "Individually identifiable health information" is information that is a subset of health information, including

demographic information collected from an individual and is created or received by a health care provider, health plan, employer, or health care clearinghouse; and relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual; or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

~~(34)~~ "Intracompany sales" means any transaction between a division, subsidiary, parent, ~~and/~~or affiliated or related company under the common ownership and control of a corporate or other legal business entity.

~~(35)~~ "Label" means a display of written, printed, or graphic matter upon the immediate container of any drug or device.

~~(36)~~ "Labeling" means the process of preparing and affixing a label to a drug container exclusive, however, of a labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged prescription drug or device.

~~(37)~~ "Long-Term care facility" means a nursing home, retirement care, mental care, or other facility or institution that provides extended health care to resident patients.

~~(38)~~ "Mail-order pharmacy" means a pharmacy, regardless of its location, which dispenses greater than ~~twenty-five~~ 25 percent of its prescription drugs via the mail or other delivery services.

~~(39)~~ "Manufacturer" means any person who is engaged in manufacturing, preparing, propagating, processing, packaging, repackaging, or labeling of a prescription drug, whether within or outside this state.

~~(40)~~ "Manufacturing" means the production, preparation, propagation, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis and includes any packaging or repackaging of the substance or

substances or labeling or relabeling of its contents and the promotion and marketing of the drugs or devices. Manufacturing also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

~~(41)~~ "Medical order" means a lawful order of a practitioner that may or may not include a prescription drug order.

~~(42)~~ "Medication therapy management" is a distinct service or group of services that optimize medication therapeutic outcomes for individual patients. Medication therapy management services are independent of, but can occur in conjunction with, the provision of a medication or a medical device. Medication therapy management encompasses a broad range of professional activities and responsibilities within the licensed pharmacist's scope of practice.

These services may include the following, according to the individual needs of the patient:

(A) Performing or obtaining necessary assessments of the patient's health status pertinent to medication therapy management;

(B) Optimize medication use, performing medication therapy, and formulating recommendations for patient medication care plans;

(C) Developing therapeutic recommendations, to resolve medication related problems;

(D) Monitoring and evaluating the patient's response to medication therapy, including safety and effectiveness;

(E) Performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events;

(F) Documenting the care delivered and communicating essential information to the patient's primary care providers;

(G) Providing verbal education and training designed to enhance patient understanding and appropriate use of his or her medications;

(H) Providing information, support services, and resources designed to enhance patient adherence with his or her medication therapeutic regimens;

(I) Coordinating and integrating medication therapy management services within the broader health care management services being provided to the patient; and

(J) Such other patient care services as may be allowed by law.

~~(43)~~ "Misbranded" means a drug or device that has a label that is false or misleading in any particular manner; or the label does not bear the name and address of the manufacturer, packer, or distributor and does not have an accurate statement of the quantities of the active ingredients in the case of a drug; or the label does not show an accurate monograph for prescription drugs.

~~(44)~~ "Nonprescription drug" means a drug which may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws and rules of this state and the federal government.

~~(45)~~ "Normal distribution channel" means a chain of custody for a prescription drug that goes directly or by drop shipment, from a manufacturer of the prescription drug, the manufacturer's third-party logistics provider, or the manufacturer's exclusive distributor to:

(A) A wholesale distributor to a pharmacy to a patient or other designated persons authorized by law to dispense or administer such prescription drug to a patient;

(B) A wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such prescription drug to a patient;

(C) A chain pharmacy warehouse to that chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such prescription drug to a patient;

(D) A pharmacy or to other designated persons authorized by law to dispense or administer such prescription drug to a patient; or

(E) As prescribed by the board's legislative rules.

~~(46)~~ "Patient counseling" means the communication by the pharmacist of information, as prescribed further in the rules of the board, to the patient to improve therapy by aiding in the proper use of drugs and devices.

~~(47)~~ "Pedigree" means a statement or record in ~~a~~ written form or electronic form, approved by the board, that records each wholesale distribution of any given prescription drug (excluding veterinary prescription drugs), which leaves the normal distribution channel.

~~(48)~~ "Person" means an individual, corporation, partnership, association, or any other legal entity, including government.

~~(49)~~ "Pharmacist" means an individual currently licensed by this state to engage in the practice of pharmacist care.

~~(50)~~ "Pharmacist Care" means the provision by a pharmacist of patient care activities, with or without the dispensing of drugs or devices, intended to achieve outcomes related to the cure or prevention of a disease, elimination, or reduction of a patient's symptoms, or arresting or slowing of a disease process and as provided for in section ten.

~~(51)~~ "Pharmacist-in-charge" means a pharmacist currently licensed in this state who accepts responsibility for the operation of a pharmacy in conformance with all laws and legislative rules pertinent to the practice of pharmacist care and the distribution of drugs and who is personally in full charge of the pharmacy and pharmacy personnel.

~~(52)~~ "Pharmacist's scope of practice pursuant to the collaborative pharmacy practice agreement" means those duties and limitations of duties placed upon the pharmacist by the collaborating physician~~, as jointly approved by the board and the Board of Medicine or the West Virginia Board of Osteopathic Medicine~~.

~~(53)~~ "Pharmacy" means any place within this state where drugs are dispensed and pharmacist care is provided and any place outside of this state where drugs are dispensed and pharmacist care is provided to residents of this state.

~~(54)~~ "Pharmacy Intern" or "Intern" means an individual who is currently licensed to engage in the practice of pharmacist care while under the supervision of a pharmacist.

~~(55)~~ "Pharmacy related primary care" means the pharmacist's activities in patient education, health promotion, selection and use of over the counter drugs and appliances and referral or assistance with the prevention and treatment of health related issues and diseases.

~~(56)~~ "Pharmacy Technician" means a person registered with the board to practice certain tasks related to the practice of pharmacist care as permitted by the board.

~~(57)~~ "Physician" means an individual currently licensed, in good standing and without restrictions, as an allopathic physician by the West Virginia Board of Medicine or an osteopathic physician by the West Virginia Board of Osteopathic Medicine.

"Practice notification" means a written notice to the appropriate licensing board that an individual physician or physician group or a medical provider in training where the agreement is signed by the supervising physician or chairperson of the medical department where the medical provider in training is practicing, and an individual pharmacist or pharmacists will practice in collaboration.

~~(58)~~ "Practice of telepharmacy" means the provision of pharmacist care by properly licensed pharmacists located within

United States jurisdictions through the use of telecommunications or other technologies to patients or their agents at a different location that are located within United States jurisdictions.

~~(59)~~ "Practitioner" means an individual authorized by a jurisdiction of the United States to prescribe drugs in the course of professional practices, as allowed by law.

~~(60)~~ "Prescription drug" means any human drug required by federal law or regulation to be dispensed only by prescription, including finished dosage forms and active ingredients subject to section 503(b) of the federal Food, Drug and Cosmetic Act.

~~(61)~~ "Prescription or prescription drug order" means a lawful order from a practitioner for a drug or device for a specific patient, including orders derived from collaborative pharmacy practice, where a valid patient-practitioner relationship exists, that is communicated to a pharmacist in a pharmacy.

~~(62)~~ "Product Labeling" means all labels and other written, printed, or graphic matter upon any article or any of its containers or wrappers, or accompanying such article.

~~(63)~~ "Repackage" means changing the container, wrapper, quantity, or product labeling of a drug or device to further the distribution of the drug or device.

~~(64)~~ "Repackager" means a person who repackages.

~~(65)~~ "Therapeutic equivalence" mean drug products classified as therapeutically equivalent can be substituted with the full expectation that the substituted product will produce the same clinical effect and safety profile as the prescribed product which contain the same active ingredient(s); dosage form and route of administration; and strength.

~~(66)~~ "Third-party logistics provider" means a person who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug's sale or

disposition. A third-party logistics provider shall be licensed as a wholesale distributor under this article and, in order to be considered part of the normal distribution channel, shall also be an authorized distributor of record.

~~(67)~~ "Valid patient-practitioner relationship" means the following have been established:

(A) A patient has a medical complaint;

(B) A medical history has been taken;

(C) A face-to-face physical examination adequate to establish the medical complaint has been performed by the prescribing practitioner or in the instances of telemedicine through telemedicine practice approved by the appropriate practitioner board; and

(D) Some logical connection exists between the medical complaint, the medical history, and the physical examination and the drug prescribed.

~~(68)~~ "Wholesale distribution" and "wholesale distributions" mean distribution of prescription drugs, including directly or through the use of a third-party logistics provider or any other situation in which title, ownership, or control over the prescription drug remains with one person or entity but the prescription drug is brought into this state by another person or entity on his, her, or its behalf, to persons other than a consumer or patient, but does not include:

(A) Intracompany sales, as defined in ~~subdivision thirty-four of~~ this ~~sub~~section;

(B) The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of such organizations;

(C) The sale, purchase, or trade of a drug or an offer to sell, purchase or trade a drug by a charitable organization described in section 501(c)(3) of the United States Internal Revenue Code of 1986 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(D) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control. For purposes of this article, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, by contract, or otherwise;

(E) The sale, purchase, or trade of a drug or an offer to sell, purchase or trade a drug for "emergency medical reasons" for purposes of this article includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage, except that the gross dollar value of such transfers shall not exceed five percent of the total prescription drug sales revenue of either the transferor or transferee pharmacy during any ~~twelve~~ 12 consecutive month period;

(F) The sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug or the dispensing of a drug pursuant to a prescription;

(G) The distribution of drug samples by manufacturers' representatives or distributors' representatives, if the distribution is permitted under federal law [21 U. S. C. 353(d)];

(H) Drug returns by a pharmacy or chain drug warehouse to wholesale drug distributor or the drug's manufacturer; or

(J) The sale, purchase, or trade of blood and blood components intended for transfusion.

~~(69)~~ "Wholesale drug distributor" or "wholesale distributor" means any person or entity engaged in wholesale distribution of prescription drugs, including, but not limited to, manufacturers, repackers, own-label distributors, jobbers, private-label

distributors, brokers, warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses and wholesale drug warehouses, independent wholesale drug traders, prescription drug repackagers, physicians, dentists, veterinarians, birth control and other clinics, individuals, hospitals, nursing homes and/or their providers, health maintenance organizations and other health care providers, and retail and hospital pharmacies that conduct wholesale distributions, including, but not limited to, any pharmacy distributor as defined in this section. A wholesale drug distributor shall not include any for hire carrier or person or entity hired solely to transport prescription drugs.

§30-5-19. Collaborative pharmacy practice agreement and practice notification.

(a) A pharmacist engaging in collaborative pharmacy practice shall have on file at his or her place of practice the collaborative pharmacy practice agreement. The existence and subsequent termination of the agreement and any additional information the rules may require concerning the agreement, including the agreement itself, shall be made available to the appropriate licensing board for review upon request. The agreement may allow the pharmacist, within the pharmacist's scope of practice pursuant to the collaborative pharmacy practice agreement, to conduct drug therapy management activities approved by the collaborating physician. The collaborative pharmacy practice agreement shall be a voluntary process, which is a physician directed approach after informed consent of the patient and noted in the patient's medical record, that is entered into between an individual physician or physician group and an individual pharmacist or pharmacists. A pharmacist may not diagnose. ~~and an individual patient or the patient's authorized representative who has given informed consent as per subsection (c).~~

(b) A collaborative pharmacy practice agreement may authorize a pharmacist to provide drug therapy management. In instances where drug therapy is discontinued, the pharmacist shall notify the treating physician of the discontinuance in the time frame and in the manner established by joint legislative rules. Each protocol developed, pursuant to the collaborative pharmacy

practice agreement, shall contain detailed direction concerning the services that the pharmacists may perform for that patient. The protocol shall include, but need not be limited to:

(1) The specific drug or drugs to be managed by the pharmacist;

(2) The terms and conditions under which drug therapy may be implemented, modified, or discontinued;

(3) The conditions and events upon which the pharmacist is required to notify the physician; ~~and~~

(4) The laboratory tests that may be ordered in accordance with drug therapy management; and

(5) The mutually agreed upon patient evaluations the pharmacist may conduct.

(c) All activities performed by the pharmacist in conjunction with the protocol shall be documented in the patient's medical record. The pharmacists shall report at least every ~~thirty~~ 30 days to the physician regarding the patient's drug therapy management. The collaborative pharmacy practice agreement and protocols shall be available for inspection by the board, the West Virginia Board of Medicine, or the West Virginia Board of Osteopathic Medicine, depending on the licensing board of the participating physician. A copy of the protocol shall be filed in the patient's medical record.

(d) Collaborative pharmacy agreements may not include the management of controlled substances.

(e) A collaborative pharmacy practice agreement, meeting the requirements herein established and in accordance with joint rules, shall be allowed in the hospital setting, the nursing home setting, the medical school setting and the hospital, community ~~-based~~ pharmacy setting and ambulatory care clinics. The pharmacist shall be employed by or under contract to provide services to the hospital, community pharmacy, nursing home, ambulatory care clinic, or medical school, or hold a faculty appointment with one of the schools of pharmacy or medicine in this state.

(f) Notwithstanding any other provision to the contrary, a pharmacist or group of pharmacists may practice in collaboration with physicians in any practice setting, including but not limited to a health care system, pursuant to a practice notification which has been filed with the appropriate board: *Provided*, That a pharmacist who is currently in collaboration with physicians pursuant to a practice agreement which was approved prior to June 1, 2023, may continue to practice under that agreement until the practice agreement terminates or until June 1, 2024.

(g) The practice notification shall be filed with the appropriate licensing board and becomes effective immediately upon filing. The board retains jurisdiction to investigate any complaints filed regarding a practice notification with respect to their respective license holders.

~~(f)~~ (h) Nothing pertaining to collaborative pharmacy practice shall be interpreted to permit a pharmacist to accept delegation of a physician's authority outside the limits included in the appropriate board's statute and rules."

And,

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

Com. Sub. for H. B. 4324 – "A Bill to amend and reenact §30-5-4 and §30-5-19 of the Code of West Virginia, 1931, as amended, all relating to collaborative pharmacy practice; defining terms; setting forth requirements for different practice settings; prohibiting certain practices; removing board approval of specified items; updating the terms of collaborative practice agreements; providing for a practice notification; and providing for the procedure for the practice notification."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 405)**, and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy and Hornbuckle.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4324) passed.

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

On this question, the yeas and nays were taken **(Roll No. 406)**, and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy and Hornbuckle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4324) takes effect from its passage.

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

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

Com. Sub. for H. B. 4333, Relating to the sunset of the Board of Hearing-Aid Dealers and Fitters.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Takubo, Woodrum and Plymale.

On motion of Delegate Summers, the House of Delegates agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Foster, Smith and Young.

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

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4345, Relating to motor vehicle registration cards by establishing electronic or mobile registration cards.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4426, Repeal article 33-25G-1 *et seq.* creating provider sponsored networks.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 4462, Relating to Deferred Retirement Option Plan evaluations.

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

Com. Sub. for H. B. 4489, Require counties to post open positions on statewide job bank.

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

On page one, section seven-a, line four, after the word "professional", by inserting a comma and the words "service, and extracurricular".

And,

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

Com. Sub. for H. B. 4489 – "A Bill to amend and reenact §18A-2-7a of the Code of West Virginia, 1931, as amended, relating to including service and extracurricular personnel positions in the statewide job bank required to be established by the State Board of Education; and requiring county boards of education report certain information to the statewide job bank."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 407)**, and there were—yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Kimes.

Absent and Not Voting: Evans, Hardy and Hornbuckle.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4489) passed.

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

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4491, To establish requirements for carbon dioxide sequestration.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 4517, Relating to the repealing requirements to display video ratings.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4631, Establishing a bone marrow and peripheral blood stem donation awareness program.

A message from the Senate, by

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

H. B. 4649, Transferring the operations of the West Virginia Children's Health Insurance Program to the Bureau for Medical Services.

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

On page ten, section six-a, by striking out the section caption and inserting in lieu thereof a new section caption to read as follows:

"**§5-16B-6a. Required coverage for patient cost of clinical trials and autism spectrum disorder treatment.**;

On page twelve, section six-a, lines fifty-one though fifty-four, by striking out all of subsection (a);"

And,

On page twelve, section six-a, line fifty-five, by striking out "(b)".

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 408)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy, Hornbuckle and Kessinger.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4649) passed.

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

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

Com. Sub. for S. B. 419, Establishing pilot project to evaluate impact of certain post-substance use disorder residential treatments.

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

S. B. 448, Developing policies and procedures for Statewide Interoperability Executive Committee.

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

Com. Sub. for S. B. 523, Transferring oversight of Jobs Investment Trust Fund to WV Economic Development Authority.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 524, Placing duties and functions of certain boards and commissions under Department of Arts, Culture, and History.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 542, Transferring Broadband Enhancement Council from Department of Commerce to Department of Economic Development.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2022, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 632 - "A Bill to amend and reenact §5F-2-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-4C-1, §16-4C-2, §16-4C-3, §16-4C-4, §16-4C-5, §16-4C-6, §16-4C-6a, §16-4C-6b, §16-4C-8, §16-4C-8a, §16-4C-9, §16-4C-10, §16-4C-12, §16-4C-13, §16-4C-14, §16-4C-15, §16-4C-16, §16-4C-17, §16-4C-18, §16-4C-20, §16-4C-21, §16-4C-23, and §16-4C-24 of said code; and to amend said code by adding thereto a new section, designated §16-4C-25, all relating to making Office of Emergency Medical Services, including all affiliated councils, boards, and entities, an independent office within Executive Branch of state government; setting effective date of July 1, 2022; providing that Governor shall appoint Director of Office of Emergency Medical Services at salary established by Governor; modifying the composition of the Emergency Medical Services Advisory Council; maintaining all authorities, powers, funds, and duties, and affiliated boards, councils, or commissions of Office of Emergency Medical Services; ensuring legislative

rules remain in effect; directing Secretary of the Department of Health and Human Resources and Commissioner of Bureau for Public Health to work with Director of the Office of Emergency Medical Services to ensure smooth transition; requiring Office of Emergency Medical Services to utilize to fullest extent practicable existing resources of the Department of Health and Human Resources for functions necessary for operation of office; and making technical corrections to recognize the transfer elsewhere in code"; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 638, Changing hearing and notice provisions for failing or distressed public utilities.

A message from the Senate, by

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

S. C. R. 55 - "Respectfully urging the current presidential administration to open federal lease sales onshore and offshore; supporting critical energy infrastructure to safely deliver energy produced in West Virginia; and ensuring American energy companies can access the capital they need to hire American workers."

Whereas, All West Virginia residents deserve access to affordable and reliable energy, whether electricity, natural gas, or transportation fuels, and

Whereas, West Virginians are currently dealing with the highest inflation in over 40 years, with energy costs rising 29 percent, and gasoline surging 50 percent, according to the U.S. Bureau of Labor Statistics; and

Whereas, The current administration is pursuing a policy placing the United States at the mercy of the Organization of Petroleum Exporting Countries and Russia to meet our domestic needs, harming our national and economic security; and

Whereas, Foreign oil imports from Russia surged more than 20 percent providing over $16 billion to Russia in 2021, according to the U.S. Energy Information Agency; and

Whereas, The current administration has frozen federal lease sales for American energy resources onshore and offshore while cancelling critical energy infrastructure projects like the KeystoneXL pipeline which would have reduced our dependence on Russian oil imports; and

Whereas, The current administration is actively litigating against its obligations to issue lease sales on federal lands and waters required under federal law; and

Whereas, The Federal Energy Regulatory Commission has continually delayed important decisions on permits for pipelines across the country and has recently issued new harmful policy statements that could further delay and impede critical domestic energy infrastructure from being developed, depriving West Virginia access to energy markets outside of our state; and

Whereas, The Securities and Exchange Commission is designing rules to discourage investment in domestic oil and natural gas companies which may further impede production and opportunities for West Virginians; and

Whereas, The Environmental Protection Agency has not issued a decision on West Virginia's application for Class VI primacy that would allow West Virginia to safely utilize long-term storage in conjunction with state energy development; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby respectfully urges the current Presidential Administration to open federal lease sales onshore and offshore, supporting critical energy infrastructure to safely deliver

energy produced in West Virginia, and ensuring American energy companies can access the capital they need to hire American workers; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President of the United States, the Secretary of the Interior, the Secretary of the Department of Energy, the Federal Energy Regulatory Commission, the White House National Climate Advisor, the Speaker and Clerk of the United States House of Representatives, the President Pro Tempore and Secretary of the United States Senate, the members of the West Virginia Congressional Delegation, and the news media of West Virginia."; which was referred to the Committee on Rules.

Special Calendar

Third Reading

Com. Sub. for S. B. 181, Creating Core Behavioral Health Crisis Services System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 409)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy, Hornbuckle and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 181) passed.

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

On this question, the yeas and nays were taken **(Roll No. 410)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy, Hornbuckle and Kessinger.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 181) takes effect from its passage.

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

S. B. 213, Establishing licensed professional counseling compact; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 411)**, and there were—yeas 93, nays 3, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Fast, Mazzocchi and G. Ward.

Absent and Not Voting: Evans, Hardy, Kessinger and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 213) passed.

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

Com. Sub. for S. B. 274, Requiring secretary of DHHR to allocate CPS workers by Bureau of Social Services' district annually; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 412)**, and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Brown, Evans, Hardy, Kessinger and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 274) passed.

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

On this question, the yeas and nays were taken **(Roll No. 413)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy, Kessinger and Pinson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 274) takes effect from its passage.

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

Com. Sub. for S. B. 330, Authorizing DOT to promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 414)**, and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Paynter.

Absent and Not Voting: Evans, Hardy, Kessinger and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 330) passed.

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

On this question, the yeas and nays were taken **(Roll No. 415)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy, Kessinger and Pinson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 330) takes effect from its passage.

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

S. B. 427, Permitting WV Board of Medicine investigators to carry concealed weapon; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 416)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy, Kessinger and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 427) passed.

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

Com. Sub. for S. B. 466, Relating to limitations on civil actions or appeals brought by inmates; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 417)**, and there were—yeas 78, nays 18, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Barach, Brown, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pushkin, Rowe, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Evans, Hardy, Kessinger and Pinson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 466) passed.

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

Com. Sub. for S. B. 505, Updating laws on licensure and regulation of money transmitters; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 418)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy, Kessinger and Maynard.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 505) passed.

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

Com. Sub. for S. B. 505 – "A Bill to amend and reenact §32A-2-1, §32A-2-2, §32A-2-3, §32A-2-4, §32A-2-8, §32A-2-10, §32A-2-11, §32A-2-13, §32A-2-24, and §32A-2-25 of the Code of West Virginia, 1931, as amended; and to amend said code by adding two new sections thereto, designated §32A-2-8a and §32A-2-8b, all relating to the licensure and regulation of money transmitters; updating definitions; eliminating outdated provisions; clarifying the financial institution exemption; permitting the Commissioner of Financial Institutions to participate in the multistate licensing and examination process and to conduct examinations; updating net worth requirements to use a sliding scale; providing information requirements for a change in control and updating the change in control process; specifying requirements for individuals

in control of a licensee or applicant; requiring permissible investments to match outstanding obligations; and updating the due process procedure to eliminate the two-step process for revocations and suspensions while preserving the order and hearing requirement."

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

Com. Sub. for S. B. 522, Combining offices of WV State Americans with Disabilities Act and WV Equal Employment Opportunity; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 419)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy, Kessinger and Maynard.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 522) passed.

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

Com. Sub. for S. B. 553, Relating to powers of WV Health Care Authority; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 420)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy, Kessinger and Maynard.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 553) passed.

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

On this question, the yeas and nays were taken **(Roll No. 421)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy, Kessinger and Maynard.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 553) takes effect from its passage.

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

Com. Sub. for S. B. 575, Ensuring that imposition of certain sexual offenses apply to persons working in juvenile facilities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 422)**, and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 575) passed.

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

Com. Sub. for S. B. 593, Allowing Marshall University's Forensic Analysis Laboratory access and participation in WV

DNA database for certain purposes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 423)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy, Honaker and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 593) passed.

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

On this question, the yeas and nays were taken **(Roll No. 424)**, and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy, Honaker, Kessinger and Mandt.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 593) takes effect from its passage.

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

S. B. 603, Prohibiting licensure and re-licensure in WV if applicant is prohibited from practicing in another jurisdiction; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 425)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Evans, Hardy, Honaker and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 603) passed.

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

Com. Sub. for H. B. 4023, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution; on third reading, with amendments pending, was reported by the Clerk.

An amendment, offered by Delegate Zukoff, was reported by the Clerk on page 194, following the period at the end of Item 404 by inserting a new item #405, to read as follows:

1 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2023 Org 0221

Appointed Counsel Fees (R)	78800		2,000,000
Total		$	2,000,000

From the above appropriation for Appointed Counsel Fees (R) (fund 0226 appropriation 78800 shall be used to increase reimbursement rates for Guardian Ad Litems).

And,

To renumber "Item #405 as "Item 406", and to reconcile "Total TITLE II. Section 9 – General Revenue Surplus Accrued" accordingly.

On the question of adoption of the amendment, the same was put and was rejected.

An amendment, offered by Delegate Young, was reported by the Clerk on page 194, following the period at the end of Item 404 by inserting a new item #405, to read as follows:

"405

1- Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2023 Org 0511

Child Care Development.....	14400	14,600,000
Total.....		$ 14,600,000"

And,

To renumber "Item #405" as "Item 406", and to reconcile "Total TITLE II. Section 9 – General Revenue Surplus Accrued" accordingly.

Whereupon,

Delegate Young asked and obtained unanimous consent to reform the amendment, as follows:

On page 194, following the period at the end of Item 405 by inserting a new item #406, to read as follows:

"406

1- Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2023 Org 0511

Child Care Development.....	14400	14,600,000
Total.....		$ 14,600,000"

And,

To renumber "Item #405" as "Item 406", and to reconcile "Total TITLE II. Section 9 – General Revenue Surplus Accrued" accordingly.

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

The yeas and nays having been ordered, they were taken **(Roll No. 426)**, and there were--yeas 21, nays 73, absent and not voting 6, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Boggs, Brown, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Evans, Hardy, J. Kelly, Kessinger, Pack and Smith.

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

An amendment offered by Delegate Young, was reported by the Clerk on page 194 following the period at the end of Item 404 by inserting a new item #405, to read as follows:

"405

1 - House of Delegates

Fund 0170 FY 2023 Org 2200

Capital Outlay, Repairs and Equipment (R)	58900		50,000
Total		$	50,000

From the above appropriation for (fund 0170 appropriation 78900 shall be used to install video broadcasting in the four House of Delegates Committee Rooms)."

And,

To renumber "Item #405" as "Item 406", and to reconcile "Total TITLE II. Section 9 – General Revenue Surplus Accrued" accordingly.

Delegate Young asked unanimous consent to reform the amendment, which consent was not granted, objection being heard.

Whereupon,

On motion of Delegate Young, the amendment was reformed on page 194 following the period at the end of Item 405 by inserting a new item #406, to read as follows:

"406

1 - House of Delegates

Fund 0170 FY 2023 Org 2200

Capital Outlay, Repairs and Equipment (R)	58900		50,000
Total		$	50,000

From the above appropriation for (fund 0170 appropriation 78900 shall be used to install video broadcasting in the four House of Delegates Committee Rooms)."

And,

To renumber "Item #405" as "Item 406", and to reconcile "Total TITLE II. Section 9 – General Revenue Surplus Accrued" accordingly.

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

The yeas and nays having been ordered, they were taken **(Roll No. 427)**, and there were--yeas 21, nays 74, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Boggs, Brown, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Evans, Hardy, J. Kelly, Kessinger and Pack.

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

An amendment, offered by Delegate Young, was reported by the Clerk.

Whereupon,

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

Delegates Boggs, Skaff, Fleischauer and Rowe moved to amend the bill on page 194, following the period at the end of Item 404 by inserting a new item #405, to read as follows:

"405

1 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund #### FY 2023 Org ####

State Pension supplement .....#### $ 70,534,000

From the above appropriation for State Pension supplement shall be used to provide a onetime payment to all PERS and TRS pensioners."

And,

To renumber "Item #405" as "Item 406", and to reconcile "Total TITLE II. Section 9 – General Revenue Surplus Accrued" accordingly.

Whereupon,

Delegate Boggs asked and obtained unanimous consent to withdraw the amendment and offer the following reformed amendment on page 194, following the period at the end of Item 404 by inserting a new item #405, to read as follows:

"405

1 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund #### FY 2023 Org ####

State Pension supplement .....#### $ 66,288,000

From the above appropriation for State Pension supplement shall be used to provide a onetime payment to all PERS and TRS pensioners."

And,

To renumber "Item #405" as "Item 406", and to reconcile "Total TITLE II. Section 9 – General Revenue Surplus Accrued" accordingly.

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

The yeas and nays having been ordered, they were taken **(Roll No. 428)**, and there were—yeas 24, nays 66, absent and not voting 10, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Boggs, Brown, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Paynter, Pethtel, Pushkin, Rohrbach, Rowe, Skaff, Thompson, Toney, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Barnhart, Booth, Evans, Hardy, Haynes, J. Kelly, Kessinger, McGeehan, Pack and Pritt.

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

An amendment, offered by Delegates Zukoff and Young was reported by the Clerk.

Whereupon,

Delegate Zukoff obtained unanimous consent to withdraw the amendment.

The bill was then read a third time.

On motion of Delegate Summers, the bill was then moved to the foot of all bills.

Second Reading

S. B. 135, Relating to acquisition and disposition of property by urban development authority; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 440, Establishing Uniform Commercial Real Estate Receivership Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 470, Relating generally to health care decisions; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 508, Requiring certain attire for deer hunters with muzzleloaders; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 535, Providing for revocation of school personnel certification or licensure in certain circumstances; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 591, Relating to process for filling vacancies in state Legislature; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 595, Relating to Dangerousness Assessment Advisory Board; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 616, Relating to confidentiality of court files and law-enforcement records of certain enumerated offenses;

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

Com. Sub. for S. B. 694, Relating to oil and gas conservation; on second reading, coming up in regular order, was read a second time.

An amendment, offered by Delegates Capito and Anderson, was reported by the Clerk, after the enacting clause, by striking out the remainder of the bill in its entirety and inserting in lieu thereof the following:

"**CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS, AUTHORITIES, COMMISSIONS AND COMPACTS.**

ARTICLE 9. OIL AND GAS CONSERVATION.

§22C-9-1. Declaration of public policy; legislative findings.

(a) It is hereby declared to be the public policy of this state and in the public interest to:

(1) Foster, encourage, and promote exploration for and development, production, utilization, and conservation of oil and gas resources;

(2) Prohibit waste of oil and gas resources and unnecessary surface loss of oil and gas and their constituents;

(3) Encourage the maximum recovery of oil and gas; ~~and~~

(4) Safeguard, protect, and enforce the correlative rights of operators and royalty owners in a pool of oil or gas to the end that each such operator and royalty owner may obtain his or her just and equitable share of production from ~~such~~ that pool, unit or unconventional reservoir of oil or gas; and

(5) Safeguard, protect, and enforce the property rights and interests of surface owners and the owners and agricultural users of other interests in the land.

(b) The Legislature hereby determines and finds that oil and natural gas found in West Virginia in shallow sands or strata have been produced continuously for more than 100 years; that oil and gas deposits in ~~such~~ shallow sands or strata have geological and other characteristics different than those found in deeper formations and unconventional reservoirs; and that in order to encourage the maximum recovery of oil and gas from all productive formations in this state, it is not in the public interest, with the exception of shallow wells utilized in a secondary recovery program, to enact statutory provisions relating to the exploration for or production ~~from~~ of oil and gas from vertical shallow wells, ~~as defined in section two of this article~~ but that it is in the public interest to enact statutory provisions establishing regulatory procedures and principles to be applied to the exploration for or production of oil and gas from deep wells, as defined in ~~said~~ section two and oil and gas produced from horizontal wells.

§22C-9-2. Definitions.

~~(a) As used in this article:~~

~~(1) "Commission" means the Oil and Gas Conservation Commission and "commissioner" means the Oil and Gas Conservation Commissioner as provided for in section four of this article;~~

~~(2) "Director" means the Secretary of the Department of Environmental Protection and "chief" means the Chief of the Office of Oil and Gas;~~

~~(3) "Person" means any natural person, corporation, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes any government or any political subdivision or any agency thereof;~~

~~(4) "Operator" means any owner of the right to develop, operate and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for that person or for that person and others; in the event that there is no oil and gas lease in~~

~~existence with respect to the tract in question, the owner of the oil and gas rights therein is the "operator" to the extent of seven-eighths of the oil and gas in that portion of the pool underlying the tract owned by such owner, and as "royalty owner' as to one-eighth interest in such oil and gas; and in the event the oil is owned separately from the gas, the owner of the substance being produced or sought to be produced from the pool is the "operator" as to that pool;~~

~~(5) "Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that the owner is not an operator as defined in subdivision (4) of this section;~~

~~(6) "Independent producer" means a producer of crude oil or natural gas whose allowance for depletion is determined under Section 613A of the federal Internal Revenue Code in effect on July 1, 1997;~~

~~(7) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;~~

~~(8) "Gas" means all natural gas and all other fluid hydrocarbons not defined as oil in subdivision (7) of this section;~~

~~(9) "Pool" means an underground accumulation of petroleum or gas in a single and separate reservoir (ordinarily a porous sandstone or limestone). It is characterized by a single natural-pressure system so that production of petroleum or gas from one part of the pool affects the reservoir pressure throughout its extent. A pool is bounded by geologic barriers in all directions, such as geologic structural conditions, impermeable strata, and water in the formations, so that it is effectively separated from any other pools that may be presented in the same district or on the same geologic structure;~~

~~(10) "Well" means any shaft or hole sunk, drilled, bored or dug into the earth or underground strata for the extraction of oil or gas;~~

~~(11) "Shallow well" means any well other than a coalbed methane well, drilled no deeper than one hundred feet below the top of the "Onondaga Group": *Provided,* That in no event may the "Onondaga Group" formation or any formation below the "Onondaga Group" be produced, perforated or stimulated in any manner;~~

~~(12) "Deep well" means any well, other than a shallow well or coalbed methane well, drilled to a formation below the top of the uppermost member of the "Onondaga Group;"~~

~~(13) "Drilling unit" means the acreage on which one well may be drilled;~~

~~(14) "Waste" means and includes:~~

~~(A) Physical waste, as that term is generally understood in the oil and gas industry;~~

~~(B) The locating, drilling, equipping, operating or producing of any oil or gas well in a manner that causes, or tends to cause, a reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or that causes or tends to cause unnecessary or excessive surface loss of oil or gas; or~~

~~(C) The drilling of more deep wells than are reasonably required to recover efficiently and economically the maximum amount of oil and gas from a pool. Waste does not include gas vented or released from any mine areas as defined in section two, article one, chapter twenty-two-a of this code or from adjacent coal seams which are the subject of a current permit issued under article two of chapter twenty two a of this code: *Provided,* That this exclusion does not address ownership of the gas;~~

~~(15) "Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive without waste the oil and gas in and under his tract or tracts, or the equivalent thereof; and~~

~~(16) "Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the~~

~~amount of recoverable oil and gas in that part of a pool underlying the person's tract or tracts.~~

~~(b) Unless the context clearly indicates otherwise, the use of the word "and" and the word "or" are interchangeable, as, for example, "oil and gas" means oil or gas or both.~~

(a) As used in this article:

"Commission" means the Oil and Gas Conservation Commission and "commissioner" means the Oil and Gas Conservation Commissioner as provided for in §22C-9-4 of this code;

"Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive without waste the oil and gas in and under his or her tract or tracts, or the equivalent thereof;

"Deep well" means any well, other than a shallow well, deep horizontal well, or a coalbed methane well, drilled to a formation below the top of the uppermost member of the "Onondaga Group";

"Director" means the Secretary of the Department of Environmental Protection and "chief" means the Chief of the Office of Oil and Gas;

"Drilling unit" or "unit" means the acreage on which one ~~well~~ or more wells may be drilled;

"Gas" means all natural gas and all other fluid hydrocarbons not defined as oil as that term is defined in this section;

"Horizontal drilling" means a method of drilling a well for the production of oil and gas that is intended to maximize the length of wellbore that is exposed to the formation and in which the wellbore is initially vertical but is eventually curved to become horizontal, or nearly horizontal, to be in a particular geologic formation;

"Horizontal well" means an oil and gas well, other than a coalbed methane well, where the wellbore is initially drilled using

a horizontal drilling method. A horizontal well may include multiple horizontal side laterals drilled into the same formation. A horizontal well may have completions into multiple formations from the same well. Multiple horizontal wells may be drilled from the same well pad. A horizontal well may be either a shallow well or a deep well so long as it is initially drilled using a horizontal drilling method;

"Independent producer" means a producer of crude oil or natural gas whose allowance for depletion is determined under Section 613A of the federal Internal Revenue Code in effect on July 1, 1997;

"Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool, unit, or unconventional reservoir in the person's tract or tracts within a unit.

"Natural gas liquids" means the liquid hydrocarbons removed from the natural gas through the process of fractionation or condensation.

"Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;

"Operator" means any owner of the right to develop, operate, and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for that person or for that person and others; in the event that there is no oil and gas lease in existence with respect to the tract in question, for all sections in this article other than section 7a, the owner of the oil and gas rights therein is the "operator" to the extent of seven eighths of the oil and gas in that portion of the pool underlying the tract owned by ~~such~~ the owner, and as "royalty owner" as to one-eighth interest in ~~such~~ the oil and gas; and in the event the oil is owned separately from the gas, the owner of the substance being produced or sought to be

produced from the pool or the unit ~~is the~~ is the "operator" as to that pool or acreage included in a unit; the term operator includes owners of working interests in a lease but does not include owners whose interest is limited to working interests in a wellbore only, overriding royalties, or net profits interests;

"Person" means any natural person, corporation, limited liability company, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes any government or any political subdivision or any agency thereof;

"Pool" means an underground accumulation of petroleum or gas in a single and separate reservoir (ordinarily a porous sandstone or limestone). It is characterized by a single natural-pressure system so that production of petroleum or gas from one part of the pool affects the reservoir pressure throughout its extent. A pool is bounded by geologic barriers in all directions, such as geologic structural conditions, impermeable strata, and water in the formations, so that it is effectively separated from any other pools that may be presented in the same district or on the same geologic structure;

"Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that the owner is not an operator as that term is defined in this section;

"Shallow well" means any well other than a shallow horizontal well or a coalbed methane well, drilled no deeper than 100 feet below the top of the "Onondaga Group": *Provided*, That in no event may the "Onondaga Group" formation or any formation below the "Onondaga Group" be produced, perforated or stimulated in any manner;

"Unconventional reservoir" means any geologic formation that contains or is otherwise productive of oil or natural gas that generally cannot be produced at economic flow rates or in economic volumes except by wells stimulated by multiple hydraulic fracture treatments, a horizontal wellbore, or by using

multilateral wellbores or some other technique to expose more of the formation to the wellbore;

"Vertical well" means an oil and gas well that does not utilize horizontal drilling methods. A vertical well may be either a shallow well or a deep well so long as it is initially drilled not using a horizontal drilling method;

"Waste" means and includes:

(1) Physical waste, as that term is generally understood in the oil and gas industry;

(2) The locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes, or tends to cause, a reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or that causes or tends to cause unnecessary or excessive surface loss of oil or gas; or

(3) The drilling of more horizontal wells or deep wells than are reasonably required to recover efficiently and economically the maximum amount of oil and gas from a pool, unit, or an unconventional reservoir. Waste does not include gas vented or released from any mine areas as defined in §22A-1-2 of this code or from adjacent coal seams which are the subject of a current permit issued under §22A-2-1 *et seq.* of this code: *Provided*, That this exclusion does not address ownership of the gas;

"Well" means any shaft or hole sunk, drilled, bored or dug into the earth or underground strata for the extraction of oil or gas;

(b) Unless the context clearly indicates otherwise, the use of the word "and" and the word "or" are interchangeable, as, for example, "oil and gas" means "oil or gas or both".

(c) A person with an interest in oil and gas in a unit formed under this article who does not consent to the unit shall have no liability in connection with well site preparation, drilling, completion, maintenance, reclamation, plugging, and other operations with respect to wells drilled in the unit: *Provided,* That this subsection shall not apply to any operator in a horizontal well

unit, including but not limited to any nonconsenting party who elects to participate in the horizontal well unit on a carried basis pursuant to §22C-9-7a of this code.

§22C-9-3. Application of article; exclusions.

(a) Except as provided in subsection (b) of this section, the provisions of this article shall apply to all lands located in this state, however owned, including any lands owned or administered by any government or any agency or subdivision thereof, over which the state has jurisdiction under its police power. The provisions of this article are in addition to and not in derogation of or substitution for the provisions of §22-6-1 *et seq.* of this code.

(b) This article shall not apply to or affect:

(1) Shallow wells other than shallow horizontal wells and those utilized in secondary recovery programs as set forth in in §22C-9-8 of this code and those provided for in §22C-9-4 of this code;

(2) Any well commenced or completed prior to March 9, 1972, unless ~~such~~ the well is, after completion (whether ~~such~~ the completion is prior or subsequent to that date):

(A) Deepened or drilled laterally subsequent to that date to a formation at or below the top of the uppermost member of the Onondaga Group; ~~or~~

(B) Involved in secondary recovery operations for oil under an order of the commission entered pursuant to §22C-9-8 of this code; or

(C) Drilled laterally as a horizontal well at any depth;

(3) Gas storage operations or any well employed to inject gas into or withdraw gas from a gas storage reservoir or any well employed for storage observation; ~~or~~

(4) Free gas rights; or

(5) Coalbed methane wells.

(c) The provisions of this article shall not be construed to grant to the commissioner or the commission authority or power to:

(1) Limit production or output, or prorate production of any oil or gas well, except as provided in §22C-9-7(a)(6) of this code; or

(2) Fix prices of oil or gas.

(d) Nothing contained in either this chapter or §22-1-1 *et seq.* of this code may be construed so as to require, prior to commencement of plugging operations, a lessee under a lease covering a well to give or sell the well to any person owning an interest in the well, including, but not limited to, a respective lessor, or agent of the lessor, nor shall the lessee be required to grant to a person owning an interest in the well, including, but not limited to, a respective lessor, or agent of a lessor, an opportunity to qualify under §22-6-26 of this code to continue operation of the well.

§22C-9-4. Oil and gas conservation commissioner and commission; commission membership; qualifications of members; terms of members; vacancies on commission; meetings; compensation and expenses; appointment and qualifications of commissioner; general powers and duties.

(a) The "oil and gas conservation commission" ~~shall be~~ is composed of ~~five~~ seven members. The director of the Department of Environmental Protection, and the Chief of the Office of Oil and Gas ~~shall be~~ are members of the commission ex officio. The remaining ~~three~~ five members of the commission shall be appointed by the Governor, by and with the advice and consent of the Senate, and may not be employees of the Department of Environmental Protection. Of the ~~three~~ five members appointed by the Governor, one shall be an independent producer and at least one shall be a public member not engaged in an activity under the jurisdiction of the Public Service Commission or the Federal Energy Regulatory Commission. ~~and at least one shall be a public member not engaged in an activity under the jurisdiction of the Public Service Commission or the federal energy regulatory commission~~ The third appointee shall possess a degree from an accredited college or university in engineering or geology and must

be a registered professional engineer with particular knowledge and experience in the oil and gas industry and shall serve as commissioner and as chair of the commission. The fourth appointee shall be an individual who has substantial experience in the agricultural industry, who is engaged in the business of farming in this state, and who is not and never has been, either himself or herself nor through a member of his or her immediate family, engaged in the business of oil and gas other than as a royalty recipient. When this member is to be appointed, the Governor shall request from the primary organization representing the agriculture industry in this state a list of three nominees for the member to be appointed. The fifth appointee shall be a resident owner of minerals in this state who is not and never has been affiliated with an operator of oil or gas wells. The term "affiliated", as used in the immediately preceding sentence, means someone who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with an operator of oil and gas wells by virtue of the power to direct or cause the direction of the management and policies of that operator, whether through the ownership of voting shares, by contract or otherwise.

(b) The members of the commission appointed by the Governor shall be appointed for overlapping terms of six years each, ~~except that the original appointments shall be for terms of two, four, and six years, respectively~~ except that any initial appointments shall be for terms of two, four, or six years to achieve staggered ends of terms. Each member appointed by the Governor shall serve until the members successor has been appointed and qualified. Members may be appointed by the Governor to serve any number of terms. The members of the commission appointed by the Governor, before performing any duty hereunder, shall take and subscribe to the oath required by section 5, article IV of the Constitution of West Virginia. Vacancies in the membership appointed by the Governor shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant and ~~such~~ the appointment shall be made by the Governor within 60 days of the occurrence of such vacancy. Any member appointed by the Governor may be removed by the Governor in case of incompetency, neglect of duty, gross immorality, or malfeasance

in office. A commission member's appointment ~~shall be~~ is terminated as a matter of law if that member fails to attend three consecutive meetings. The Governor shall appoint a replacement within 30 days of the termination.

(c) The commission shall meet at such times and places as ~~shall be~~ are designated by the chair. The chair may call a meeting of the commission at any time, and shall call a meeting of the commission upon the written request of two members or upon the written request of the oil and gas conservation commissioner or the Chief of the Office of Oil and Gas. Notification of each meeting shall be given in writing to each member by the chair at least 14 calendar days in advance of the meeting. ~~Three~~ Four members of the commission, at least two of whom are appointed members, ~~shall~~ constitute a quorum for the transaction of any business.

(d) The commission shall pay each member the same compensation as is paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or portion thereof engaged in the discharge of official duties and shall reimburse each member for actual and necessary expenses incurred in the discharge of official duties.

(e) The commission is hereby empowered and it is the commission's duty to execute and carry out, administer and enforce the provisions of this article in the manner provided herein. Subject to the provisions of §22C-9-3 of this code, the commission has jurisdiction and authority over all persons and property necessary therefor. The commission is authorized to make such investigation of records and facilities as the commission ~~deems~~ considers proper. In the event of a conflict between the duty to prevent waste and the duty to protect correlative rights, the commission's duty to prevent waste ~~shall be~~ is paramount.

(f) Without limiting the commission's general authority, the commission ~~shall have~~ has specific authority to:

(1) Regulate the spacing of deep wells;

(2) Issue horizontal well unit orders;

~~(2)~~(3) Make and enforce reasonable rules and orders reasonably necessary to prevent waste, protect correlative rights, govern the practice and procedure before the commission and otherwise administer the provisions of this article;

~~(3)~~(4) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams, and other pertinent documents, and administer oaths and affirmations to ~~such~~ the witnesses, whenever, in the judgment of the commission, it is necessary to do so for the effective discharge of the commission's duties under the provisions of this article; and

~~(4)~~(5) Serve as technical advisor regarding oil and gas to the Legislature, its members and committees, to the Chief of Office of Oil and Gas, to the Department of Environmental Protection and to any other agency of state government having responsibility related to the oil and gas industry.

(g) The commission may delegate to the commission staff the authority to approve or deny an application for new well permits, to establish drilling units or special field rules if:

(1) The application conforms to the rules of the commission; and

(2) No request for hearing has been received.

(h) The commission may not delegate its authority to:

(1) Propose legislative rules;

(2) Approve or deny an application for new well permits, to establish drilling units or special field rules if the conditions set forth in subsection (g) of this section are not met; or

(3) Approve or deny an application for the pooling of interests within a drilling unit.

(i) Any exception to the field rules or the spacing of wells which does not conform to the rules of the commission, and any application for the pooling of interests within a drilling unit, must be presented to and heard before the commission.

(j) The commission is hereby empowered and it is the commission's duty to execute and carry out, administer, and enforce the relevant provisions of §37B-1-1 *et seq.* of this code concerning mineral development by cotenants for all wells at all depths and §22-11B-1 *et seq.* of this code concerning underground carbon dioxide sequestration storage facilities at all depths. The commission has jurisdiction and authority over all persons and property necessary therefor. The commission is authorized to make such investigation of records and facilities as the commission deems proper.

§22C-9-5. Rules; notice requirements.

(a) The commission may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code, to implement and make effective the provisions of this article and the powers and authority conferred and the duties imposed upon the commission under the provisions of this article.

(b) Notwithstanding the provisions of §29A-7-2 of this code, any notice required under the provisions of this article shall be given at the direction of the commission by personal or substituted service or by certified United States mail, addressed, postage prepaid, to the last-known mailing address, if any, of the person being served, with the direction that the same be delivered to addressee only, return receipt requested. In the case of providing notice upon the filing of an application with the commission, the commission ~~shall cause~~ shall, within 14 days of the filing of an application, submit for publication notice of the application notice to be published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for ~~such~~ the publication shall be the county or counties wherein any land which may be affected by ~~such~~ the order is situate.

In addition, the commission shall mail a copy of ~~such~~ the notice to all other persons who have specified to the commission an address to which all such notices may be mailed. The notice shall issue in the name of the state, shall be signed by the one of the commission members, shall specify the style and number of the proceeding, the time and place of any hearing and shall briefly state the purpose of the proceeding. Each notice of a hearing must be provided no fewer than 20 days preceding the hearing date. Personal or substituted service and proof thereof may be made by an officer authorized to serve process or by an agent of the commission in the same manner as is now provided by the ~~"West Virginia Rules of Civil Procedure for Trial Courts of Record"~~ West Virginia Rules of Civil Procedure for service of process in civil actions in the various courts of this state.

A certified copy of any pooling or unit order entered under the provisions of this article shall be presented by the commission to the clerk of the county commission of each county wherein all or any portion of the pooled or unit tract is located, for recordation in the record book of ~~such~~ the county in which oil and gas leases are normally recorded. The recording of the order from the time noted thereon by ~~such~~ the clerk shall be notice of the order to all persons.

§22C-9-7a. Unitization of interests in horizontal well drilling units.

(a) *Declaration of public policy; legislative findings regarding unitization for all horizontal wells.*

The Legislature finds that horizontal drilling is a technique that effectively and efficiently recovers natural resources and should be encouraged as a means of production of oil and gas and it is hereby declared to be the public policy of this state and in the public interest to:

(1) Foster, encourage, and promote exploration for and development, production, utilization, and conservation of oil and gas resources by horizontal drilling in deep and shallow formations;

(2) Prohibit waste of oil and gas resources and unnecessary surface loss of oil and gas and their constituents;

(3) Encourage the maximum recovery of oil and gas; and

(4) Safeguard, protect, and enforce the correlative rights of operators and royalty owners of oil and gas in a horizontal well unit to the end that each such operator and royalty owner may obtain his or her just and equitable share of production from that pool, horizontal well unit or unconventional reservoir of oil or gas; and

(5) Safeguard, protect, and enforce the property rights and interests of surface owners and the owners and agricultural users of other interests in the land.

(b) *Definitions.*— Unless the context in which used clearly requires a different meaning, as used in this section:

"Bonded operator" means a person that has posted a bond under §22-6-1 *et seq.* or §22-6A-1 *et seq.* of this code; is registered as an oil and gas well operator with the West Virginia Department of Environmental Protection, Office of Oil and Gas; and operates eight or more oil and gas wells, as defined in §22-6-1 *et seq.* or §22-6A-1 *et seq.* of this code, in West Virginia that are active, producing oil and gas wells;

"Executive interest" and "executory interest" means the interest entitling the owner to lease the oil and gas estate or amend an existing oil and gas lease. For purposes of this section, the owner of the executive interest is considered to be the royalty owner and interested party for purposes of notice and participation in proceedings here in this article, and all horizontal well unit orders are binding on the owners of executive interests and nonexecutive interests in a horizontal well unit. The owners of the executive interest and the associated nonexecutive interest owners are considered to be the same interest for purposes of computing percentages pursuant to §22C-9-7a(c)(2)(A) and §22C-9-7a(c)(2)(B) of this code;

"Horizontal well unit" means an area in which horizontal drilling may occur, and that is designated for the allocation of

production from one or more horizontal wells drilled in the unit to oil and gas tracts, or portions of the tracts, included in the unit for production of oil and gas and payment of royalty and proceeds of production regardless of the tract or tracts in which the horizontal well is drilled or completed, and the corresponding authorization to drill and produce oil and gas from that area as a unit, notwithstanding the lack of adequate consensual rights allowing pooling or unitization of oil and gas or allowing drilling horizontally across tract lines. When a horizontal well unit is formed, that portion of the production allocated to each tract or portion of the unit included in the horizontal well unit shall, when produced, be considered for all purposes to have been actually produced from the tract by an oil and gas well drilled, completed and producing on the tract;

"Lateral" means the portion of a well bore that deviates from approximate vertical orientation to approximate horizontal orientation and all wellbore beyond the initial deviation to total depth or terminus of the wellbore;

"Overriding royalty" means an interest carved out of the leasehold or out of the working interest and is not included within the meaning of royalty;

"Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that the owner is not an operator as defined in §22C-9-2(a) of this code. A royalty owner does not include a person whose interest is limited to: (A) A working interest in a wellbore only; (B) overriding royalties; (C) nonparticipating royalty interests; (D) nonexecutive mineral interests; or (E) net profits interests;

"Target formation" means the primary geologic formation from which oil or gas is intended to be produced from a horizontal drilling operation and, where completions can reasonably be expected to produce from formations above or below the target formation, includes the formations from which production can reasonably be expected;

"Unitization" means the combination of two or more tracts of oil and gas, or portions thereof, or leases, for drilling of horizontal wells and production of oil and gas from the unit with allocation of production to the net acreage of each tract included in the unit to operate as a consolidated horizontal well unit;

"Unitization consideration" means consideration provided as set forth in subsection (f) of this section. Unitization consideration relates to the net acreage of the nonconsenting royalty owner included in a horizontal well unit;

"Unknown and unlocatable interest owner" means a royalty owner, executive interest owner, operator or other person vested with an interest in oil and gas in the target formation to be included in a horizontal well unit, whose present identity or location cannot be determined from:

(A) A reasonable review of the records of the clerk of the county commission for the county or counties where the oil and gas is located and any immediately adjacent counties within this state;

(B) Diligent inquiry to known interest owners in the same tract;

(C) Inquiry to the sheriff's and assessor's offices of the county or counties in which the oil and gas interest is located;

(D) A reasonable inquiry utilizing available internet resources that could reasonably lead to the identification of the person; and

(E) A mailing to the last known address, if available, of the person as reflected in the records of the sheriff's or assessor's office, and includes the unknown heirs, representatives, successors and assigns of the person.

"Weighted average sales price" means a weighted average sales price obtained each month for amounts received at the applicant's various delivery points to unaffiliated, third-party purchasers accessible by the owner's production, without deduction of post-production, third-party costs and expenses charged to or incurred by applicant and/or its affiliates other than costs and expenses charged to or incurred by applicant and/or its

affiliates after the first liquid trading point or, if the production does not undergo processing, after delivery to the first interstate pipeline.

(c) *Applicability*. —

(1) For all horizontal wells, including shallow horizontal wells and deep horizontal wells, the commission may unitize tracts, or portions of tracts, in a horizontal well unit established under this section upon the filing of an application with the commission by a person that controls the horizontal well unit and upon the issuance of a horizontal well unit order pursuant to this section.

(2) Before filing an application under this section, an applicant must have:

(A) With respect to the royalty interest, for shallow horizontal wells and deep horizontal wells, obtained by ownership, lease, lease amendment, assignment, farmout, compliance with §37B-1-1, *et seq.* of this code with respect to unknown or unlocatable interest owners defined in §37B-1-3 of this code only, contract or other agreement the right, consent or agreement to pool or unitize the acreage to be included in the horizontal well unit from executory interest royalty owners of 75 percent or more of the net acreage in the target formation proposed to be included in the horizontal well unit, as provided and determined in subdivision (3) of this subsection; and

(B) With respect to the operator interest:

(i) For shallow horizontal wells, obtained by ownership, lease, lease amendment, assignment, farmout, contract, or other agreement, the right, consent or agreement to pool or unitize as to 55 percent or more of the net acreage in the target formation proposed to be included in the horizontal well unit owned, leased, or operated by operators and the applicant, collectively, by ownership, lease, farmout, assignment, contract or other agreement, as provided and determined in subdivision (3) of this subsection; or

(ii) For deep horizontal wells, obtained by ownership, lease, lease amendment, assignment, farmout, compliance with §37B-1-1, *et seq.* of this code with respect to unknown or unlocatable interest owners defined in §37B-1-3 of this code only, contract or other agreement the right, consent or agreement to develop the acreage to be included in the horizontal well unit from executory interest royalty owners of 55 percent or more of the net acreage in the target formation proposed to be included in the horizontal well unit, as provided and determined in subdivision (3) of this subsection;

(C) (i) Made good faith offers to consent or agree to pool or unitize, and has negotiated in good faith with, all known and locatable royalty owners having executory interests in the oil and gas in the target formation within the acreage to be included in the proposed horizontal well unit who have not previously consented or agreed to the pooling or unitization of the interests and whose interests are not subject to development under §37B-1-1, *et seq.* of this code; and

(ii) Made good faith offers to participate or consent or agree to the proposed horizontal well unit, and has negotiated in good faith with, all known and locatable operators who have not previously agreed to participate or consent or agree to pool or unitize the acreage to be included in a proposed horizontal well unit.

(iii) A person who satisfies the conditions of paragraphs (A) through (C) of this subdivision is referred to in this section as a person that controls the horizontal well unit.

(3) For purposes of determining whether a person has obtained the requisite control of the proposed horizontal well unit, the commission may not include overriding royalty owners, nonexecutive interest royalty owners or acreage owned or otherwise held by unleased unknown and unlocatable interest owners whose acreage is not subject to development pursuant to §37B-1-1, *et seq.* of this code, or acreage owned or otherwise held by operators who are not bonded operators, unless such operators have consented or otherwise agreed to develop their operator interest in the net acreage in the target formation proposed to be

included in the horizontal well unit. Furthermore, for purposes of determining whether a person has the requisite control of the proposed horizontal well unit, the identity and rights of royalty owners and operators shall be determined as of the date on which the application for a horizontal well unit is filed.

(4) If the applicant has not met all the provisions of this subsection, the application shall be dismissed without prejudice.

(5) If the applicant meets all of the provisions of this subsection, the commission shall authorize unitization of tracts, or portions of the tracts, as to all interests in oil and gas in the target formation acreage proposed to be unitized for horizontal drilling, including interests of unknown and unlocatable interest owners, for production of oil and gas from the target formation as a horizontal well unit, and shall issue a horizontal well unit order in accordance with this section.

(d) *Application requirements*. —

(1) An applicant who is a person that controls the horizontal well unit proposed for a horizontal well unit order and has drilled or plans to drill one or more horizontal wells in the proposed horizontal well unit may file an application with the commission for a horizontal well unit order. The application shall contain:

(A) A description of the proposed horizontal well unit and identification of the target formation or formations;

(B) A statement of the nature of the operations contemplated;

(C) A plat that depicts the boundaries and acreage of the proposed horizontal well unit, the tracts in the horizontal well unit, the surface tax map and parcel numbers of the surface tracts above the tracts to be included in the horizontal well unit in accordance with county assessor's records, and the district(s) and county or counties where the proposed horizontal well unit is located. The plat shall show the surface location of the vertical borehole of the horizontal well(s) to be included in the proposed horizontal well unit determined by survey, the courses and distances of the surface location from two permanent points or landmarks on those tracts,

the deviation from vertical, and also the proposed horizontal lateral portion of each proposed horizontal well to be included in the proposed horizontal well unit. The plat shall show the proposed horizontal well unit name, the proposed horizontal well names, and if known, the well number of each horizontal well to be drilled in the horizontal well unit. The plat shall also show the location of each permitted, active oil and gas well located in the horizontal well unit, and the name of the operator of the well as shown by the records of the Department of Environmental Protection, Office of Oil and Gas: *Provided*, That the applicant is not required to depict or identify any abandoned or plugged well that is not required to be depicted or identified on the plat required by §22-6A-5(a)(6) of this code;

(D) A listing of all oil and gas tracts, or portions thereof, within the proposed horizontal well unit, the size of each tract, and the extent to which each tract is leased;

(E) The names and last known addresses of royalty owners of the target formation of each tract within the proposed horizontal well unit, specifying:

(i) Which, if any, of them are unknown and unlocatable;

(ii) Which of them hold executive rights; and

(iii) With respect to owners of an executory interest, whether they have consented to pooling or unitization of the acreage proposed to be included in the horizontal well unit;

(F) The names and last known addresses of operators of proposed horizontal well unit target formation acreage whose interest is of record in the county where the property is located, specifying:

(i) Which, if any, of them are unknown and unlocatable; and

(ii) Which, if any of them, are bonded operators, and if a bonded operator, whether he or she has consented to pooling or unitization as to the acreage proposed to be included in the horizontal well unit;

(G) Information regarding the applicant's actions to identify and locate unknown and unlocatable interest owners of target formation acreage to be included in the horizontal well unit;

(H) The percentage of the net acreage in the proposed horizontal well unit owned by executory interest target formation royalty owners who have consented to pooling or unitization;

(I) The percentage of the net acreage in the proposed horizontal well unit held by bonded operators and the applicant, collectively, as to which consent or agreement to pool or unitize has been granted;

(J) A percentage allocation to the separately owned tracts, or portions thereof, in the proposed horizontal well unit of the oil and gas that will be produced from the horizontal well unit as determined by the proportion that each tract's net acreage within the horizontal well unit bears to the total net acreage in the horizontal well unit;

(K) A certification that the applicant meets the requirements of subsection (c) of this section with respect to the proposed horizontal well unit, a list of the instruments granting the control and a certification that the applicant has mailed a copy of the application to all known and locatable interested parties by United States certified mail, return receipt requested, to their last known address and to the most current address filed with the West Virginia Department of Environmental Protection, Office of Oil and Gas, if any;

(L) A statement whether the applicant has submitted, either previously or contemporaneously with the application filed pursuant to this section, an application for a well work permit with the Department of Environmental Protection for one or more horizontal wells to be completed within the boundaries of the proposed horizontal well unit; and

(M) A proposed joint operating agreement that will govern the contractual relationship between the applicant and any unleased royalty owners following an election by the executive interest

owners to participate in the drilling in the horizontal well unit on a carried basis under §22C-9-7a(f)(9) of this code.

(2) Upon the filing of an application for a horizontal well unit order, the commission shall provide notice of a hearing to all interested parties, as defined in this section, in accordance with §22C-9-5 of this code and subsection (g) of this section.

(e) *Standard of review*. —

(1) The commission shall evaluate the application and shall consider:

(A) The ownership and control of the tracts, or portions of the tracts, in the proposed horizontal well unit;

(B) Whether the tracts, or portions of the tracts, proposed to be made subject to a horizontal well unit order are owned, in whole or in part, by unknown and unlocatable interest owners;

(C) Information regarding the applicant's actions to locate unknown and unlocatable interest owners for the tracts, or portions of the tracts, sought to be included in the horizontal well unit;

(D) The percentage of executory interest royalty owner target formation acreage to be included in the horizontal well unit as to which consent or agreement for pooling or unitization has been granted;

(E) The percentage of proposed horizontal well unit target formation acreage held, collectively, by the applicant and bonded operators who have consented or agreed to the unit in accordance with subsection (c) of this section;

(F) Whether the applicant is a person that controls the horizontal well unit proposed for unitization;

(G) The area to be drained by well(s) completed or to be completed in the horizontal well unit;

(H) Correlative rights;

(I) The extent to which the application will prevent waste including the stranding of acreage of oil and gas formations between units that would be uneconomical to produce;

(J) Whether the applicant has complied with subsection (c) of this section;

(K) Whether notice has been provided in accordance with this section; and

(L) Whether the applicant demonstrates the intent and ability to drill all the wells proposed in the unit.

(2) The commission may not issue a horizontal well unit order pursuant to this section unless it finds that the applicant has before the filing of the application met the requirements of subsection (c) of this section.

(3) The commission may not change the operator of an existing well drilled in the proposed horizontal well unit, or a well actually being drilled within the proposed horizontal well unit as of the date the application is filed under this section and shall consider and protect the interests of owners of the well when issuing a horizontal well unit order.

(f) *Horizontal well unit orders*. —

(1) A horizontal well unit order under this section shall specify:

(A) The size and boundaries of the horizontal well unit giving due regard for maximization of the amount of oil and gas produced to prevent waste and protect correlative rights: *Provided*, That a horizontal well unit's size may not exceed 640 acres: *Provided, however*, That the commission may exceed the acreage limitation if the applicant demonstrates that the proposed horizontal well unit area would be drained efficiently and economically by a larger horizontal well unit: *Provided further,* That a horizontal well unit containing one or more horizontal wells may not contain more than 128 net acres controlled by nonconsenting royalty owners determined as of the date that the application for the horizontal well unit application is filed.

(B) The horizontal wells which may be drilled in the horizontal well unit, and whether the horizontal wells to be drilled are shallow or deep;

(C) If there are vertical wells completed in the target formation in the horizontal well unit, the area where a horizontal well may not be completed;

(D) The target formation or target formations to which the horizontal well unit applies; and

(E) Any unitization consideration due.

(2) An order authorizing unitization of tracts with unknown and unlocatable interest owners shall contain a finding that identifies the persons as unknown and unlocatable.

(3) An order shall specify that the allocation of the percentage of production of the horizontal wells drilled in the horizontal well unit to the separately owned tracts, or portions of the tracts, included within the horizontal well unit shall be in the proportion that each tract's net acreage within the horizontal well unit bears to the total net acreage within the horizontal well unit.

(4) A horizontal well unit order shall authorize and perfect unitization of all interests in the target formation as to the tracts, or portions of the tracts, included in the horizontal well unit.

(5) If the applicant is a person that controls the horizontal well unit proposed for a horizontal well unit order under this section, the commission shall form a horizontal well unit pursuant to this section and authorize the drilling and operation of one or more horizontal wells in the unit for the production of oil or gas from the target formation from any tract within the horizontal well unit.

(6) With respect to royalty owners of leased tracts who have not consented to pooling or unitization, the commission shall require that unitization consideration be paid to executive interest royalty owners in an amount equal to 25 percent of the weighted average monetary bonus amount on a net mineral acre basis and a production royalty percentage equal to 80 percent of the weighted

average production royalty percentage rounded to the nearest one tenth of one percent paid to other executive interest owners of leased tracts in the unit in the same target formation: *Provided*, That the weighted average calculation shall not include any fixed amounts paid to royalty owners or payments made on any basis other than a net mineral acre basis. Further, the royalty percentage cannot be less than the production royalty percentage in the existing lease or twelve and one-half percent for a flat rate lease. The applicant, all royalty owners, and owners of leasehold, working interest, overriding royalty interest and other interests in the oil and gas are bound by the order and the remaining lease terms, including other terms related to the payment of royalties. Unitization consideration shall be paid by the participating operators, including the applicant, to the extent of their interest in the horizontal well unit.

(7) With respect to interests in oil and gas as to which there is no lease in existence:

(A) Executive interest owners may elect to surrender the oil and gas underlying the tract to the participating operators, including the applicant, to the extent of their interest in the horizontal well unit for consideration, which if not agreed upon, shall be an amount equal to the weighted average amount paid, per net mineral acre, by the applicant to executive interest owners in bona fide, third-party transactions for the acquisition of the oil and gas mineral estate in the same target formation underlying the horizontal well unit: *Provided*, That the weighted average calculation shall not include any fixed amounts paid to royalty owners or payments made on any basis other than a net mineral acre basis; or

(B) Executive interest owners may make an election for unitization consideration, and if the executive interest owner elects unitization consideration, the interests of the executive interest owner and the associated nonexecutive interest owners shall be considered leased to the participating operators, including the applicant, to the extent of their interest in the horizontal well unit on terms which, if not agreed upon, shall consist of the following:

(i) A bonus payment per net mineral acre equal to the weighted average monetary bonus paid, per net mineral acre, to executive interest owners by the applicant in connection with other leases in the same target formation controlled by the applicant within the horizontal well unit: *Provided*, That the weighted average calculation shall not include any fixed amounts paid as bonus payments to executive interest owners or payments made on any basis other than a net mineral acre basis; and

(ii) A production royalty for the natural gas, oil and natural gas liquids produced and sold equal to the highest production royalty percentage in connection with other leases in the same target formation controlled by the applicant within the horizontal well unit and dated within the twenty four months preceding the application date. Executive interest owners may make a one-time election prior to the issuance of a horizontal well unit order by the commission to be paid production royalties for natural gas based on either: (a) An index price in effect at the beginning of each calendar month, as published in an independent, third-party publication reflecting arm's-length, market-based sales, for natural gas applicable to the first interstate pipeline into which the natural gas is delivered, and shall not be reduced by post-production expenses; or (b) the weighted average sales price.

Production royalties for natural gas liquids will be calculated using the sum of the proceeds received at the tailgate of the processing facility for each natural gas liquid product during each month divided by the volume of such natural gas liquid product that was sold during such month and shall not be reduced by post-production expenses. If an executive interest owner does not make the one-time election regarding the price on which royalties for natural gas shall be paid prior to the issuance of a horizontal well unit order by the commission, the applicant shall determine whether it will pay royalties to the executive interest owner and the associated nonexecutive interest owners based on either the index price described in this subparagraph or the weighted average sales price, and such determination shall be binding on the applicant, operators, executive interest owners and the associated nonexecutive interest owners for the term of the lease. The

applicant and all royalty owners and owners of leasehold, working interest, overriding royalty interest and other interests in the associated unleased oil and gas shall be bound by the order. Nothing contained in paragraph (B) applies to any lease in this state now in existence or entered into in the future, or to any award of unitization consideration made by the commission other than unitization consideration awarded to an executive interest owner of an unleased tract who elects to be considered leased pursuant to this paragraph; or

(C) Executive interest owners may make an election to participate in a horizontal well unit consistent with §22C-9-7a(f)(9) and §22C-9-7a(f)(10) of this code.

(D) Owners of oil and gas interests as to which there is no lease in existence who do not elect (A), (B) or (C) of this subdivision shall be considered to have made an election to receive unitization consideration and lease their interest in the oil and gas mineral estate in the target formation to the applicant pursuant to §22C-9-7a(f)(7)(B) of this code.

(8) No unitization consideration may be required to be paid to any royalty owner who has consented or agreed to pooling or unitization by virtue of the terms contained in an oil and gas lease, or other agreement which permits pooling or unitization.

(9) An operator may elect to consent to and participate in a horizontal well unit after an application is filed. Subject to subdivision (7) of this subsection, when the commission issues a horizontal well unit order pursuant to this section, the commission shall consider each nonconsenting operator, who does not elect to participate in the risk and cost of drilling in the horizontal well unit through a voluntary agreement with the applicant, to participate in the drilling in the horizontal well unit on a carried basis on terms and conditions which, if not agreed upon, shall be consistent with the terms and conditions contained in the proposed joint operating agreement submitted by the applicant in accordance with §22C-9-7a(d)(1)(M) of this code: *Provided,* That the commission determines that the proposed terms and conditions of the joint operating agreement are consistent with terms typically found in

other similarly situated, arm's-length joint operating agreements within the horizontal well unit that were entered into by the applicant for the same target formation prior to the filing of the application for the horizontal well unit.

(10) If a nonconsenting operator participates in the drilling in the horizontal well unit on a carried basis under the horizontal well unit order and an owner of any operating interest in any portion of the horizontal well unit drills and operates, or pays the costs of drilling, completing, equipping and operating a horizontal well for the benefit of a nonconsenting operator as provided in the horizontal well unit order, then the operating owner is entitled to the share of production from the tracts or portions thereof subject to the horizontal well unit order accruing to the interest of the nonconsenting operator, exclusive of any unitization consideration, and royalty and overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of the tracts or portions of the tracts, until the net revenue from the nonconsenting operator's share of the production, exclusive of the unitization consideration, royalty and overriding royalty, equals double the share of the costs payable by or charged to the interest of the nonconsenting operator, as set forth in the accounting procedures included within the joint operating agreement submitted by the applicant in accordance with §22C-9-7a(d)(1)(M) of this code.

(11) If all wells proposed in a horizontal well unit approved by the commission are not drilled and completed as approved in the horizontal well unit order, the applicant shall file a request to modify the horizontal well unit with the commission within 60 days from the later of: Completion of all drilling activities within the horizontal well unit; or the date that is five years after the most recent drilling activity in the horizontal well unit occurs.

(12) Any interested party may file an application to correct a clerical error in a horizontal well unit order at any time.

(13) The applicant may file a request to modify a horizontal well unit order at any time.

(14) If an operator has not drilled and completed a well in a horizontal well unit formed by the commission within three years after the latter of either the drilling and completion of the initial horizontal well in the horizontal well unit or the drilling and completion of the most recent horizontal well within the horizontal well unit, as the case may be, an interested party may file a request to modify the horizontal well unit, and the commission may modify the horizontal well unit. Upon the modification of the horizontal well unit, the commission shall recalculate the allocation of production from the tracts in the modified horizontal well unit from and after the modification order date and the modification order shall be binding on the property subject to the horizontal well unit order, and all owners thereof, their heirs, representatives, successors and assigns for so long as the horizontal well unit order remains in effect. Following the entry of a modified horizontal well unit order containing the commission's recalculation of the allocation of production from the tracts in the modified horizontal well unit order, the applicant and all other operators shall have no liability whatsoever to pay royalty in any manner other than that set forth in the modified horizontal well unit order.

(15) All operations, including, but not limited to, the commencement, drilling, or operation of a horizontal well upon any portion of a horizontal well unit for which a unit order has been entered pursuant to this section, shall be considered for all purposes the conduct of the operations upon each separate tract or portion of the tract in the horizontal well unit. That portion of the production allocated to each tract or portion of the tract included in a horizontal well unit shall, when produced, be considered for all purposes to have been actually produced from the tract by an oil and gas well drilled, completed, and producing on the tract.

(16) Subject to the provisions of subsection (o) of this section, where the commission finds that the interest of one or more unknown and unlocatable interest owners are included in the horizontal well unit, the horizontal well unit operator shall deposit the moneys payable to unknown and unlocatable interest owners into an escrow account bearing a market rate of interest to be held,

administered and disbursed in accordance with an order of the commission and this section.

(17) A horizontal well unit order under this section shall expire if a horizontal well has not been drilled in the horizontal well unit within three years of the date the order is final and is nonappealable, unless the commission extends the order for good cause, and if a well has been drilled within three years the horizontal well unit shall continue in force and effect until the last producing horizontal well in the horizontal well unit is no longer capable of producing oil and gas.

(18) So long as the order remains in effect, a horizontal well unit order shall be binding on the property subject to the horizontal well order and all owners of the property and their heirs, representatives, successors, and assigns.

(g*) Notice, timelines, hearings, and orders. —*

(1)(A) For purposes of this section and the West Virginia Administrative Procedures Act, "interested parties" and "parties" mean owners of the executive interest in the oil and gas in the target formation within the horizontal well unit, including the unknown and unlocatable interest owner of the executive interest in the tracts, or portions of the tracts, to be included in the horizontal well unit subject to an application for a horizontal well unit order; owners of unleased oil and gas to be included in the horizontal well unit; operators of all target formation acreage in the horizontal well unit; and operators of all oil and gas wells located in the unit that have been drilled to or through the target formation.

(B) Bonded operators of wells drilled to or through the target formation that are not within the horizontal well unit but are located within 500 feet of a proposed horizontal well unit boundary and executive interest owners owning an interest in the target formation that is not located within the horizontal well unit but is located within 500 feet of a proposed horizontal well unit boundary may submit written comments regarding the horizontal well unit application at any time before the start of any hearing regarding the application, but are not interested parties and may not participate

in the hearing nor have the right to appeal the commission's decision regarding the application.

(2) Each notice issued in accordance with this section shall describe the area for which a horizontal well unit order is proposed in recognizable, narrative terms and contain such other information as is essential to the giving of proper notice, including the time and date and place of a hearing. As soon as practicable the commission shall establish a website. Within three business days of the filing of an application under this section, the commission shall publish on its website a copy of: (i) The horizontal well unit application notice required to be published pursuant to this section and section five of this article; and (ii) the proposed horizontal well unit plat filed with the application, both identified as a horizontal well unit application and indexed by county and district where the majority of the acreage to be included in the proposed horizontal well unit is located, so that the plat and notice of the application are readily accessible. Timely publication on the website for a period of 10 business days shall be notice to all operators.

(3) Upon request of any interested party or the commission, the commission shall conduct a hearing and receive evidence regarding the application. All interested parties may participate in any hearing. If a hearing has been held regarding an application, the order shall be a final order. If no hearing has been requested by the commission or an interested party within 15 days after notice of the application is posted on the commission website in accordance with subdivision (2) of this subsection, the commission may issue a proposed order and provide a copy of the proposed order, together with notice of the right to appeal to the commission and request a hearing, to all interested parties. Any interested party aggrieved by the proposed order may appeal the proposed order to the commission and request a hearing. Notice of appeal and request for hearing shall be made within 15 days of entry of the proposed order. If no appeal and request for hearing have been received within 15 days, the proposed order shall become final. If a hearing is requested, the hearing shall commence within 45 days of issuance of the initial notice. The commission may, upon written request, extend the date for the hearing: *Provided*, That the hearing

must be convened within 45 days of the initial notice issued by the commission. The commission shall, within 20 days of the hearing, enter an order authorizing the unit, dismiss the application, or for good cause continue the process.

(4) At least 10 days prior to a hearing to consider an application for a horizontal well unit order, the applicant shall file with an independent, third-party attorney, or accountant selected by the chair of the commission a summary of:

(A) The prevailing economic terms of the leases within the proposed horizontal well unit relating to the target formation where the applicant is the operator, including the bonus payment per net mineral acre and production royalty rate, including whether the production royalty is subject to reduction for post-production expenses; and

(B) The prevailing amounts paid to the executive interest royalty owners, per net mineral acre, for the modification of leases relating to the target formation within the proposed unit where the applicant is the operator to allow the lessee to unitize the leased tract with other tracts for purposes of drilling horizontal wells.

(C) The independent, third-party selected by the chair of the commission shall review the economic information filed by the applicant to determine its accuracy and, upon completion of his or her review, shall submit a report to the commission specifying the following information for inclusion by the commission in the horizontal well unit order:

(i) The weighted average monetary bonus paid, per net mineral acre, to executive interest owners by the applicant in connection with other leases in the same target formation controlled by the applicant within the horizontal well unit, as provided in §22C-9-7a(f)(6) and §22C-9-7a(f)(7)(B)(ii) of this code;

(ii) The weighted average production and highest royalty percentage, calculated on a net mineral acre basis, of the leases in the same target formation controlled by the applicant within the

horizontal well unit, as provided in §22C-9-7a(f)(6) of this code; and

(iii) The highest production royalty percentage in the unit in connection with other leases in the same target formation controlled by the applicant within the horizontal well until and dated within the 24 months preceding the application date, as provided in §22C-9-7a(f)(7)(B)(ii) of this code.

(D) The reasonable fees and expenses of the independent, third-party selected by the chair of the commission to review the information filed by the applicant and render his or her report to the commission pursuant to this subsection shall be paid by the applicant.

(E) When filing information with the independent third-party selected by the chair of the commission, the applicant may mark the summary of the prevailing economic terms of leases and amounts paid for lease modifications, and any associated documents or information, as "CONFIDENTIAL" to the extent that the documents contain confidential, commercial information. Any information marked "CONFIDENTIAL" may only be used by the independent third-party selected by the chair of the commission for the purpose of performing his or her review and preparation and submission of his or her report to the commission, and by the court for the purpose of any appeal pursuant to §22C-9-7a(g)(5) of this code. All information marked "CONFIDENTIAL" pursuant to this subdivision shall retain that character in any court of competent jurisdiction on appeal, and the applicant may file a motion with the court seeking to have the documents sealed and withheld from the public record throughout the appeal from a final order of the commission pertaining to a horizontal well unit order. Furthermore, any information marked "CONFIDENTIAL" pursuant to this subdivision is exempt from disclosure under §29B-1-1 *et seq.* of this code.

(5) An order establishing a horizontal well drilling unit or dismissing an application shall be a final order. Any interested party aggrieved by the order may seek judicial review pursuant to section eleven of this article. Notice of appeal shall be made in

accordance with §22C-9-11 of this code within 15 days of entry of the order. If no appeal has been received within 15 days, the order shall become final.

(h) *Unit order does not grant surface rights*. — A horizontal well unit order under this section does not grant or otherwise affect surface use rights: *Provided*, That without limiting the foregoing, in no event shall drilling be initiated upon, or other surface disturbance occur upon, the surface of or above a tract of minerals that was forced into the unit pursuant to this section without the owner's consent.

(i) *Commission approval required for certain additional drilling*. — After the filing of an application for a horizontal well unit order, no well may be drilled or completed to or through the target formation of the proposed horizontal well unit unless authorized by the commission.

(j) *Contemporaneous permit applications authorized.*— Notwithstanding anything to the contrary in §22-6A-1 *et seq.* of this code, upon the filing of an application for a horizontal well unit order pursuant to this section, an applicant may file an application for a well work permit under §22-6A-1 *et seq.* of this code for any proposed development within the horizontal well unit for which the unit order is sought.

(k) *A party may appear in person.* — At any hearing an interested party may represent themselves or be represented by an attorney-at-law.

(l) No provision of this section alters the common law of this state regarding the deduction of post-production expenses for the purpose of calculating royalty.

(m) *Conflict resolution.* — After the effective date of this section, all applications requesting unitization for horizontal wells shall be filed pursuant to this section. Deep well horizontal unit applications filed before the effective date of this section shall continue to proceed under and be governed by the provisions of section seven of this article. With respect to horizontal well unit

applications filed after the effective date of this section, if this section conflicts with section seven of this article, the provisions of this section shall prevail. When considering an application pursuant to this section, rules regarding deep wells promulgated before the effective date of this section shall not apply.

(n) *Unknown and unlocatable interest owners.* — Notwithstanding the existence of unknown and unlocatable interest owners, a horizontal well unit order may be entered and development, drilling and production may occur in the horizontal well unit. Unknown and unlocatable interest owners of oil and gas in place not subject to lease shall be considered to have made an election to receive unitization consideration and lease their interest in the oil and gas mineral estate in the target formation to the applicant pursuant to §22C-9-7a(f)(7)(B) of this code. Unknown and unlocatable interest owners of working interest in property subject to lease before an application for a horizontal well unit is filed pursuant to this section shall be considered to have elected to participate in the drilling in the horizontal well unit on a carried basis pursuant to §22C-9-7a(f)(9) and §22c-9-7a(f)(10) of this code.

(o) *Opportunity of surface owners to acquire interests of unknown and unlocatable interest owners in oil and gas underlying horizontal well unit.* —

(1) When the interests of unknown and unlocatable interest owners' property is included in a horizontal well unit, if the applicant has not filed a proceeding pursuant to §55-12A-1 *et seq.* of this code (entitled Lease and Conveyance of Mineral Interests Owned by Missing or Unknown Owners or Abandoning Owners) with respect to the interest of an unknown and unlocatable interest owner in the horizontal well unit, and taxes on the unknown and unlocatable interest owners' property are not delinquent, then, after a horizontal well unit order is entered by the commission, the applicant shall inform the parties paying taxes on the surface overlying that portion of the oil and gas included in the horizontal well unit that the surface owner(s) (TSO) may acquire the underlying interest of the unknown and unlocatable interest owners in the horizontal well unit in a proceeding pursuant to this

subsection and that information about the interest may be obtained from the applicant. Upon written request to the applicant by any TSO, the applicant shall, to the extent practicable under the circumstances, furnish the requesting TSO the following information: *Provided,* That applicant is not required to provide confidential, trade secret, attorney client communications or attorney work product:

(A) An identification of the last known owner, and information in the possession of the applicant regarding the last known identity and address of, the interest believed to be held by unknown and unlocatable interest owners,

(B) The efforts to locate unknown and unlocatable interest owners,

(C) Such other information known to the applicant which might be helpful in identifying or locating the present owners thereof,

(D) A copy of the most recent recorded instrument embracing the interest of the unknown and unlocatable interest owners as necessary to show the vesting of title to the minerals in the last record owner of the title to the minerals.

(E) The acreage of the tract and the net acreage of the unknown or unlocatable mineral owner or owners in the tract.

(F) The amount of money at any point to which the surface owners would be entitled upon written request.

(2) When an unknown and unlocatable interest in oil and gas is included in a horizontal well unit an owner of the surface overlying the interest may file a verified petition with respect to all the interests of unknown and unlocatable interest owners included in a horizontal well unit and underlying the surface owner's property. The circuit court in which the majority of the property subject to the petition authorized by this subsection is located has jurisdiction of the proceeding. The petition shall refer to this subsection and identify the oil and gas property subject to the petition. The prayer in any such petition shall be for the court to order, in the case of any defendant or heir, successor or assign of any defendant who

does not appear to claim ownership of the defendant's interest for five years after the date the unit order is filed, a conveyance of the defendants' oil and gas mineral interest under this subsection, subject to the horizontal well unit order and lease terms approved by the commission, to the petitioners.

(3) In any proceeding authorized in this subsection the circuit court in which the petition is filed shall consider the property subject to the petition leased to the participating operators in the horizontal well unit on the terms determined by the commission.

(4) The person filing a petition under this subsection shall join as defendants to the action all unknown and unlocatable interest owners having record title to the particular oil and gas minerals subject to the petition, and the unknown heirs, successors and assigns of all such owners not known to be alive. All persons not in being who might have some contingent or future interest therein, and all persons whether in being or not in being, having any interest, present, future or contingent, in the mineral interests subject to the petition, shall be fully bound by the proceedings under this subsection.

(5) Any other owner of an overlying surface tract shall be joined as a petitioner in the proceeding. Any other person purporting to be the unknown and unlocatable interest owner, or any heir, successor or assign of an unknown and unlocatable interest owner, may appear as a matter of right at any time prior to the entry of judgment confirming the deed authorized by this subsection, for the purpose of establishing his or her title to a mineral interest subject to the petition. If the appearing unknown and unlocatable interest owner's claim is established to the satisfaction of the court, the court shall dismiss the action as to the appearing owner's interest without cost, fees or damages: *Provided,* That if the appearance of the formerly unknown and unlocatable interest owner was as a result of the filing of the petition by the surface owner pursuant to this subsection, then the court may order the petitioner's reasonable proportionate attorneys' fees and costs to be paid to the petitioner out of the amounts payable to the formerly unknown and unlocatable interest owner.

(6) The court may appoint a special commissioner at any time to deliver a deed to the petitioners in the form provided herein five years after first production reported to the state occurs or one year after the first publication service of a petition under this subsection is made, whichever is later. The special commissioner shall be an attorney duly admitted to practice before the West Virginia Supreme Court of Appeals and in good standing, but may not be required to give bond. If the petitioners do not agree as to the interest each is to acquire by the deed contemplated herein, or the division of any moneys associated therewith, the court shall equitably determine the interests of the petitioners.

(7) In any action under this subsection, if personal service of process is possible, it shall be made as provided by the West Virginia Rules of Civil Procedure. In addition, immediately upon the filing of the petition, the petitioner shall: (1) Publish a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and in the county wherein any part of the oil and gas mineral estate described in the petition lies and any immediately adjacent counties; and (2) no later than the first day of publication, file a lis pendens notice in the county clerk's office of the county where the petition is filed and the county wherein the larger part of the oil and gas mineral estate described in the petition lies. Both the advertisement and the lis pendens notice shall set forth: (1) The names of the petitioner and the defendants, as they are known to be by the exercise of reasonable diligence by the petitioner, and their last known addresses; (2) the date and record data of the instrument or other conveyance which immediately created the oil and gas mineral interest; (3) an adequate description of the land as contained therein; (4) the source of title of the last known owners of the oil and gas mineral interests; and (5) a statement that the action is brought for the purpose of authorizing payments from a horizontal well unit, and thereafter, in the case of any defendant or heir, successor or assign of any defendant who does not appear to claim ownership of the defendant's interest within five years after the date of the court ordering a conveyance of the defendant's oil and gas mineral interest under this subsection, subject to the lease terms determined by the commission and horizontal well unit order, to the owners of the

surface overlying the oil and gas mineral interest. In addition, the petitioner shall send notice by certified mail, return receipt requested, to the last known address, if there is one, of all named defendants. In addition, the court may order advertisement elsewhere or by additional means if there is reason to believe that additional advertisement might result in identifying and locating the unknown and unlocatable interest owners.

(8) Upon a finding by the court of the present ownership of the petitioners of the surface estate, the court shall order the special commissioner to convey to the proven surface owners, subject to the horizontal well unit order and lease terms approved by the commission, the mineral interest specified in the petition authorized herein, by a deed substantially in the form as follows:

This deed, made the _____day of _____, 20___, between _____, special commissioner, grantor and _____, grantee,

Witnesseth, that whereas, grantor, in pursuance of the authority vested in him or her by an order of the circuit court of _____ county, West Virginia, entered on the _____day of _____, 20___, in civil action no. _____ therein pending, to convey the mineral interest more particularly described below to the grantee,

Now, therefore, this deed witnesseth: That grantor grants unto grantee, subject to the provisions of the horizontal well unit order of the Oil and Gas Conservation Commission in _____ and lease terms provided therein, and further subject to all other liens and encumbrances of record, that certain oil and gas mineral interest in _____ County, West Virginia, more particularly described in the cited order of the circuit court as follows: (here insert the description in the order).

Witness the following signature.

_____

Special Commissioner

(9) Prior to the delivery of the special commissioner's deed, no deed from owners of the surface to another party shall sever any benefits from this subsection from ownership of the surface. A deed doing so is void and unenforceable.

(10) After the date of the special commissioner's deed authorized herein, the surface owner grantee is entitled to receive all proceeds due and payable under a horizontal well unit order attributable to the mineral interests specified in the special commissioner's deed accruing before and after the date of the special commissioner's deed.

(11) The applicant may not be joined as a party, but shall be served with copies of all pleadings and other papers filed in the proceeding, and may intervene at any time. A surface owner must provide a copy of the recorded Special Commissioner deed to the applicant and any other necessary information reasonably requested by the applicant before the applicant or any other operator has an obligation to provide payment to the surface owner.

(12) Payment by the applicant shall relieve the participating operators of all liability whatsoever that the participating operators may have had to any unknown and unlocatable interest owners, their heirs, successors and assigns with respect to the payment and all operations in the horizontal well unit, all operations therein and all production from the operations.

(13) If a surface owner does not file a petition pursuant to this subsection within six years of the date notice is given to a TSO as provided herein, amounts payable with respect to the unknown and unlocatable interest owners' interests included in a horizontal well unit shall be paid to the Oil and Gas Reclamation Fund established pursuant to §22-6-29 of this code, and the payment shall relieve the participating operators of all liability of the participating operators with respect to the horizontal well unit and all operations therein and production therefrom to any unknown and unlocatable interest owners, their heirs, successors and assigns and to any owners of surface overlying the unknown and unlocatable interest owners' interest, their heirs, successors and assigns, with respect to the payment.

(14) After the recording of the special commissioner's deed, no action may be brought by any unknown and unlocatable interest owner or any heir, successor or assign thereof either to recover any past or future proceeds accrued or to be accrued from the property subject to the deed, or to recover any right, title or interest in and to the mineral interest subject to the deed.

(15) If any unknown and unlocatable interest owner or heir, successor or assign thereof appears in the proceeding in circuit court, the unknown and unlocatable interest owner, if he or she establishes his or her claim to the satisfaction of the circuit court, shall only be entitled to receive amounts payable in connection with the horizontal well unit or production therefrom after the date of appearance in the proceeding. Further, the participating operators and the petitioning surface owners shall have no liability to the unknown and unlocatable interest owner or their heirs, successors or assigns for any amount paid with respect to the unknown and unlocatable interest or the horizontal well unit or production therefrom paid in accordance with this subsection.

(p) If any part of this section is adjudged to be unconstitutional or invalid, the invalidation shall not affect the validity of the remaining parts of this section; and to this end, the provisions of this section are hereby declared to be severable."

Delegate Zukoff moved to amend the amendment on page 5, section 2, lines 90 through 92, by striking out the definition of "Just and equitable share of production" in its entirety and inserting a new definition to read as follows:

"Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying the person's tract or tracts."

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

The yeas and nays having been ordered, they were taken **(Roll No. 429)**, and there were—yeas 31, nays 62, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Boggs, Bridges, Brown, Crouse, Dean, Diserio, Doyle, Fleischauer, Fluharty, Griffith, Hansen, Hornbuckle, Howell, Jennings, Kimble, Lovejoy, Paynter, Pethtel, Pritt, Pushkin, Reed, Rowe, Skaff, Storch, Thompson, Walker, G. Ward, Williams, Young and Zukoff.

Absent and Not Voting: Evans, Garcia, Hardy, J. Kelly, Linville, McGeehan and Pack.

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

An amendment, offered by Delegates Zukoff was reported by the Clerk.

Whereupon,

Delegate Zukoff obtained unanimous consent to withdraw the amendment.

The strike and insert amendment offered by Delegates Capito and Anderson was then adopted.

The bill was then read a third time.

First Reading

S. B. 1, Creating Mining Mutual Insurance Company; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 6, Establishing common law "veil piercing" claims not be used to impose personal liability; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 231, Relating generally to broadband connectivity; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 245, Revising wage payment and collection; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 253, Relating to voting precincts and redistricting; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 443, Including police and firefighter as electors of trustees for certain pension funds; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 478, Relating to Neighborhood Investment Program; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 486, Allowing PERS retirees to designate special needs trust as beneficiary; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 492, Relating to electronic collection of tolls; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 529, Encouraging additional computer science education in WV schools; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 543, Creating Unemployment Compensation Insurance Fraud Unit within Workforce WV; on first reading, coming up in regular order, was read a first time.

The original second reference having been omitted from the Committee on the Judiciary report on yesterday, Delegate Summers asked and obtained unanimous consent that second reference to the Committee on Finance be dispensed with.

Reference of the bill (Com. Sub. for S. B. 543) to the Committee on Finance was then abrogated and the bill was ordered to second reading.

S. B. 546, Expanding uses of fees paid by students at higher education institutions; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 550, Relating to funding for higher education institutions; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 570, Establishing training for law-enforcement in handling individuals with Alzheimer's and dementias; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 571, Declaring certain claims to be moral obligations of state; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 584, Relating to WV Infrastructure and Jobs Development Council; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 641, Requiring Consolidated Public Retirement Board to set contributions to Deputy Sheriff's Retirement System; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 698, Relating to number and selection of members for Governor's Veterans Council; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 704, Allowing parents, grandparents, and guardians to inspect instructional materials in classroom; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Third Reading

- continued -

Com. Sub. for S. B. 250, Budget Bill; on third reading, with amendment pending, and having been placed at the foot of all bills by the Committee on Rules, was reported by the Clerk.

On motion of Delegate Householder, the bill was amended on page one after the enacting clause by striking the remainder of the bill and inserting in lieu thereof the following:

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 2023.

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 2023" shall mean the period from July 1, 2022, through June 30, 2023.

"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 except that during Fiscal Year 2023, and upon approval from the State Budget Office, agencies with the appropriation "Salary and Benefits of Cabinet Secretary and Agency Heads" may transfer between this appropriation and the appropriation "Personal Services and Employee Benefits" an amount to cover annualized salaries and employee benefits for the fiscal year ending June 30, 2023, as provided by W.V. Code §6-7-2a: *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 consolidates, reorganizes or terminates agencies, boards or functions, within any fiscal year the secretary or other appropriate agency head, or in the case of the termination of a spending unit of the state, the Director of the State Budget Office, in the absence of general law providing otherwise, may transfer the funds formerly appropriated to such agency, board or function, allocating items of appropriation as may be necessary if only part of the item may be allocated, in order to implement such consolidation, reorganization or termination. 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.

ORDER OF SECTIONS

SECTION 1. Appropriations from general revenue.

SECTION 2. Appropriations from state road fund.

SECTION 3. Appropriations from other funds.

SECTION 4. Appropriations from lottery net profits.

SECTION 5. Appropriations from state excess lottery revenue.

SECTION 6. Appropriations of federal funds.

SECTION 7. Appropriations from federal block grants.

SECTION 8. Awards for claims against the state.

SECTION 9. Appropriations from general revenue surplus accrued.

SECTION 10. Appropriations from lottery net profits surplus accrued.

SECTION 11. Appropriations from state excess lottery revenue surplus accrued.

SECTION 12. Special revenue appropriations.

SECTION 13. State improvement fund appropriations.

SECTION 14. Specific funds and collection accounts.

SECTION 15. Appropriations for refunding erroneous payment.

SECTION 16. Sinking fund deficiencies.

SECTION 17. Appropriations for local governments.

SECTION 18. Total appropriations.

SECTION 19. General school fund.

Section 1. Appropriations from general revenue. – From the State Fund, General Revenue, there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year 2023.

LEGISLATIVE

1- Senate

Fund 0165 FY 2023 Org 2100

	Appro-priation		General Revenue Fund
Compensation of Members (R)	00300	$	1,010,000
Compensation and Per Diem of Officersand Employees (R)	00500		4,011,332
Current Expenses and Contingent Fund (R)	02100		321,392
Repairs and Alterations (R)	06400		35,000
Technology Repair and Modernization (R)	29800		80,000
Expenses of Members (R)	39900		450,000
BRIM Premium (R)	91300		44,482
Total		$	5,952,206

The appropriations for the Senate for the fiscal year 2022 are to remain in full force and effect and are hereby reappropriated to June 30, 2023. Any balances so reappropriated may be transferred and credited to the fiscal year 2022 accounts.

Upon the written request of the Clerk of the Senate, 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 Senate, with the approval of the President, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the Senate, for any bills for supplies and services that may have been incurred by the Senate and not included in the appropriation bill, for supplies and services incurred in preparation for the opening, the conduct of the business and after adjournment of any regular or extraordinary session, and for the necessary operation of the Senate offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by the Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel between sessions of the Legislature as shall be needed, the compensation of all staff personnel during and between sessions of the Legislature, notwithstanding any such Senate resolution, to be fixed by the President of the Senate. The Clerk is hereby authorized to draw his or her requisitions upon the Auditor for the payment of all such staff personnel for such services, payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and 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.

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

Fund 0170 FY 2023 Org 2200

Compensation of Members (R)	00300	$	3,000,000
Compensation and Per Diem of Officers and Employees (R)	00500		575,000
Current Expenses and Contingent Fund (R)	02100		4,399,031
Expenses of Members (R)	39900		1,350,000
Capital Outlay, Repairs and Equipment (R)	58900		500,000
BRIM Premium (R)	91300		80,000
Total		$	9,904,031

The appropriations for the House of Delegates for the fiscal year 2022 are to remain in full force and effect and are hereby reappropriated to June 30, 2023. Any balances so reappropriated may be transferred and credited to the fiscal year 2022 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 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 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 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 2023 Org 2300

Joint Committee on Government and Finance (R)	10400	$	7,725,138
Legislative Printing (R)	10500		260,000
Legislative Rule-Making Review Committee (R)	10600		147,250
Legislative Computer System (R)	10700		1,447,500
Legislative Dues and Fees (R)	10701		600,000

BRIM Premium (R)	91300	60,569
Total		$ 10,240,457

The appropriations for the Joint Expenses for the fiscal year 2022 are to remain in full force and effect and are hereby reappropriated to June 30, 2023. Any balances reappropriated may be transferred and credited to the fiscal year 2022 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 2023 Org 2400

Personal Services and Employee Benefits (R)	00100	$ 124,201,587
Current Expenses (R)	13000	21,063,451
Repairs and Alterations (R)	06400	40,000
Equipment (R)	07000	2,482,300
Military Service Members Court (R)	09002	300,000
Judges' Retirement System (R)	11000	777,000
Buildings (R)	25800	10,000
Other Assets (R)	69000	200,000
BRIM Premium (R)	91300	834,000
Total		$ 149,908,338

The appropriations to the Supreme Court of Appeals for the fiscal years 2020, 2021 and 2022 are to remain in full force and effect and are hereby reappropriated to June 30, 2023. Any balances so reappropriated may be transferred and credited to the fiscal year 2022 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 therefrom 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 2023 Org 0100

Personal Services and Employee Benefits	00100	$	3,332,448
Current Expenses (R)	13000		799,000
Repairs and Alterations	06400		25,000
Equipment	07000		1,000
National Governors Association	12300		60,700
Herbert Henderson Office of Minority Affairs	13400		396,726
Community Food Program	18500		1,000,000
Office of Resiliency (R)	18600		605,234
BRIM Premium	91300		183,645
Total		$	6,403,753

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), Current Expenses (fund 0101, appropriation 13000), and Office of Resiliency (fund 0101, appropriation 18600) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for Herbert Henderson Office of Minority Affairs (fund 0101, appropriation 13400) shall be transferred to the Minority Affairs Fund (fund 1058).

6 - Governor's Office –

Custodial Fund

(WV Code Chapter 5)

Fund 0102 FY 2023 Org 0100

Personal Services and Employee Benefits	00100	$	396,421
Current Expenses (R)	13000		182,158
Repairs and Alterations	06400		5,000
Equipment	07000		1,000
Total		$	584,579

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

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 2023 Org 0100

Milton Flood Wall (R)	75701	$	3,500,000

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), Local Economic

Development Assistance – Surplus (fund 0105, appropriation 26600), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), Milton Flood Wall (fund 0105, appropriation 75701), Milton Flood Wall – Surplus (fund 0105, appropriation 75799), Natural Disasters – Surplus (fund 0105, appropriation 76400), and Local Economic Development Assistance (fund 0105, appropriation 81900) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

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

(WV Code Chapter 12)

Fund 0116 FY 2023 Org 1200

Personal Services and Employee Benefits	00100	$	2,461,609
Current Expenses (R)	13000		13,429
BRIM Premium	91300		12,077
Total		$	2,487,115

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

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

(WV Code Chapter 12)

Fund 0126 FY 2023 Org 1300

Personal Services and Employee Benefits	00100	$	2,649,270
Unclassified	09900		31,463
Current Expenses (R)	13000		572,684
Abandoned Property Program	11800		41,794
Other Assets	69000		10,000
ABLE Program	69201		150,000
BRIM Premium	91300		59,169
Total		$	3,514,380

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

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 2023 Org 1400

Personal Services and Employee Benefits	00100	$	6,559,737
Current Expenses (R)	13000		848,115
Animal Identification Program	03900		134,060
State Farm Museum	05500		87,759
Gypsy Moth Program (R)	11900		1,051,759

WV Farmers Market	12801	150,467
Black Fly Control	13700	456,724
HEMP Program	13701	363,162
Donated Foods Program	36300	45,000
Veterans to Agriculture Program (R)	36301	262,432
Predator Control (R)	47000	176,400
Bee Research	69100	72,752
Microbiology Program	78500	102,854
Moorefield Agriculture Center	78600	1,017,582
Chesapeake Bay Watershed	83000	115,453
Livestock Care Standards Board	84300	8,820
BRIM Premium	91300	138,905
State FFA-FHA Camp and Conference Center	94101	756,707
Threat Preparedness	94200	75,618
WV Food Banks	96900	426,000
Senior's Farmers' Market Nutrition Coupon Program	97000	55,835
Total		$ 12,906,141

Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Veterans to Agriculture Program (fund 0131, appropriation 36301), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

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 2023 Org 1400

Personal Services and Employee Benefits	00100	$	836,549
Unclassified	09900		77,059
Current Expenses (R)	13000		317,848
Soil Conservation Projects (R)	12000		9,962,895
BRIM Premium	91300		34,428
Total		$	11,228,779

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000) and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

12 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 0135 FY 2023 Org 1400

Personal Services and Employee Benefits	00100	$	695,260
Unclassified	09900		7,090
Current Expenses	13000		82,605
Total		$	784,955

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 2023 Org 1400

Programs and Awards for			
4-H Clubs and FFA/FHA	57700	$	15,000
Commissioner's Awards			
and Programs	73700		39,250
Total		$	54,250

14 - Department of Agriculture –

West Virginia Agricultural Land Protection Authority

(WV Code Chapter 8A)

Fund 0607 FY 2023 Org 1400

Personal Services and			
Employee Benefits	00100	$	102,573
Unclassified	09900		950
Total		$	103,523

15 - Attorney General

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2023 Org 1500

Personal Services and			
Employee Benefits (R)	00100	$	3,114,386
Unclassified (R)	09900		24,428
Current Expenses (R)	13000		687,795
Repairs and Alterations	06400		1,000

Equipment	07000		1,000
Criminal Convictions and Habeas Corpus Appeals (R)	26000		970,283
Better Government Bureau	74000		283,648
BRIM Premium	91300		120,654
Total		$	5,203,194

Any unexpended balances remaining in the 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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

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 2023 Org 1600

Personal Services and Employee Benefits	00100	$	118,794

Unclassified (R)	09900		8,352
Current Expenses (R)	13000		781,584
BRIM Premium	91300		34,500
Total		$	943,230

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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

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 2023 Org 1601

Personal Services and Employee Benefits	00100	$	2,477
Unclassified	09900		75
Current Expenses	13000		4,956
Total		$	7,508

DEPARTMENT OF ADMINISTRATION

18 - Department of Administration – Office of the Secretary

(WV Code Chapter 5F)

Fund 0186 FY 2023 Org 0201

Personal Services and Employee Benefits	00100	$	452,199
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		168,000
Unclassified	09900		9,177

Current Expenses	13000		85,009
Repairs and Alterations	06400		100
Equipment	07000		1,000
Financial Advisor (R)	30400		27,546
Lease Rental Payments	51600		14,850,000
Design-Build Board	54000		4,000
Other Assets	69000		100
BRIM Premium	91300		6,736
Total		$	15,603,867

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

The appropriation for Lease Rental Payments (fund 0186, appropriation 51600) shall be disbursed as provided by W.Va. Code §31-15-6b.

19 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund 0195 FY 2023 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 2023 Org 0209

Personal Services and Employee Benefits	00100	$	65,453

Unclassified	09900		1,400
Current Expenses	13000		53,563
GAAP Project (R)	12500		632,332
BRIM Premium	91300		20,675
Total		$	773,423

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2023 Org 0211

Personal Services and Employee Benefits	00100	$	2,860,163
Unclassified	09900		20,000
Current Expenses	13000		1,148,349
Repairs and Alterations	06400		500
Equipment	07000		5,000
Fire Service Fee	12600		14,000
Preservation and Maintenance of Statues and Monuments on Capitol Grounds	37100		68,000
Capital Outlay, Repairs and Equipment (R)	58900		23,660,888
BRIM Premium	91300		129,983
Total		$	27,906,883

Any unexpended balance remaining in the appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

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 2023 Org 0213

Personal Services and Employee Benefits	00100	$	1,072,747
Unclassified	09900		144
Current Expenses	13000		1,285
Repairs and Alterations	06400		200
BRIM Premium	91300		6,922
Total		$	1,081,298

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 2023 Org 0215

Personal Services and Employee Benefits	00100	$	823,542
Unclassified	09900		12,032
Current Expenses	13000		440,247
Repairs and Alterations	06400		1,000
Equipment	07000		5,000
Buildings (R)	25800		100
Other Assets	69000		100
Total		$	1,282,021

Any unexpended balance remaining in the appropriation for Buildings (fund 0615, appropriation 25800) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

24 - Commission on Uniform State Laws

(WV Code Chapter 29)

Fund 0214 FY 2023 Org 0217

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 2023 Org 0219

Personal Services and Employee Benefits	00100	$	999,883
Unclassified	09900		1,000
Current Expenses	13000		145,295
Equipment	07000		50
BRIM Premium	91300		8,740
Total		$	1,154,968

26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2023 Org 0220

Personal Services and Employee Benefits	00100	$	624,669
Unclassified	09900		2,200
Current Expenses	13000		104,501
Repairs and Alterations	06400		500
Other Assets	69000		100

BRIM Premium	91300		5,574
Total		$	737,544

27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2023 Org 0221

Personal Services and Employee Benefits	00100	$	1,859,148
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		119,000
Unclassified	09900		333,300
Current Expenses	13000		12,740
Public Defender Corporations	35200		22,155,232
Appointed Counsel Fees (R)	78800		12,691,113
BRIM Premium	91300		10,575
Total		$	37,181,108

Any unexpended balance remaining in the appropriation for Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

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).

28 - Committee for the Purchase of Commodities and Services from the Handicapped

(WV Code Chapter 5A)

Fund 0233 FY 2023 Org 0224

Personal Services and Employee Benefits	00100	$	3,187
Current Expenses	13000		868
Total		$	4,055

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2023 Org 0225

PEIA Subsidy	80100	$	21,000,000

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.

The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium cost-sharing percentage requirements between employers and employees. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2023 Org 0228

Forensic Medical Examinations (R)	68300	$	143,697
Federal Funds/Grant Match (R)	74900		109,007
Total		$	252,704

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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

31 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2023 Org 0233

Personal Services and Employee Benefits	00100	$	704,366
Unclassified	09900		124
Current Expenses	13000		137,381
Repairs and Alterations	06400		100
Equipment	07000		2,500
BRIM Premium	91300		9,784
Total		$	854,255

DEPARTMENT OF COMMERCE

32 - Division of Forestry

(WV Code Chapter 19)

Fund 0250 FY 2023 Org 0305

Personal Services and Employee Benefits	00100	$	4,798,258
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		111,674
Unclassified	09900		21,435
Current Expenses	13000		558,024
Repairs and Alterations	06400		80,000
BRIM Premium	91300		98,754
Total		$	5,668,145

Any unexpended balance remaining in the appropriation for Equipment (fund 0250, appropriation 07000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

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 2023 Org 0306

Personal Services and Employee Benefits	00100	$	1,645,283
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		112,753
Unclassified	09900		27,678
Current Expenses	13000		51,524
Repairs and Alterations	06400		968
Mineral Mapping System (R)	20700		1,117,464
BRIM Premium	91300		24,486
Total		$	2,980,156

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

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 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 0260 FY 2023 Org 0308

Personal Services and Employee Benefits	00100	$	1,606,616
Current Expenses	13000		227,000
Repairs and Alterations	06400		28,000
Equipment	07000		15,000
BRIM Premium	91300		8,500
Total		$	1,885,116

35 - Division of Natural Resources

(WV Code Chapter 20)

Fund 0265 FY 2023 Org 0310

Personal Services and Employee Benefits	00100	$	17,724,945
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		113,188
Unclassified	09900		184,711
Current Expenses	13000		196,302
Repairs and Alterations	06400		100
Equipment	07000		100
Buildings (R)	25800		100
Capital Outlay – Parks (R)	28800		3,000,000
Litter Control Conservation Officers	56400		151,662
Upper Mud River Flood Control	65400		166,304
Other Assets	69000		100
Land (R)	73000		100
Law Enforcement	80600		2,628,555
BRIM Premium	91300		45,141
Total		$	24,211,308

Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800), Capital Outlay – Parks (fund 0265, appropriation 28800), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

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 2023 Org 0314

Personal Services and Employee Benefits	00100	$	9,662,673
Unclassified	09900		111,016
Current Expenses	13000		1,396,141
Coal Dust and Rock Dust Sampling	27000		493,803
BRIM Premium	91300		80,668
Total		$	11,744,301

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 2023 Org 0319

Personal Services and Employee Benefits	00100	$	240,032
Unclassified	09900		3,480
Current Expenses	13000		118,138
Total		$	361,650

Included in the above appropriation for Current Expenses (fund 0280, appropriation 13000) up to $29,000 shall be used for the Coal Mine Safety and Technical Review Committee.

38 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2023 Org 0323

Personal Services and Employee Benefits	00100	$	51,433
Unclassified	09900		593
Current Expenses	13000		6,447
Total		$	58,473

39 - Department of Commerce –

Office of the Secretary

(WV Code Chapter 19)

Fund 0606 FY 2023 Org 0327

Personal Services and Employee Benefits	00100	$	1,313,774
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		153,750
Unclassified	09900		1,490
Current Expenses	13000		353,147
Total		$	1,822,161

40 - State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 0310 FY 2023 Org 0932

Personal Services and Employee Benefits	00100	$	11,913,813
Current Expenses	13000		558,815
Independent Living Services	00900		429,418
Workshop Development	16300		1,817,427
Supported Employment Extended Services	20600		77,960
Ron Yost Personal Assistance Fund	40700		333,828
Employment Attendant Care Program	59800		131,575
BRIM Premium	91300		77,464
Total		$	15,340,300

From the above appropriation for Workshop Development (fund 0310, appropriation 16300) 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 TOURISM

41 - Department of Tourism –

Office of the Secretary

(WV Code Chapter 5B)

Fund 0246 FY 2023 Org 0304

Tourism – Brand Promotion (R)	61803	$	3,000,000
Tourism – Public Relations (R)	61804		1,500,000
Tourism – Events and Sponsorships (R)	61805		500,000
Tourism – Industry Development (R)	61806		500,000
State Parks and Recreation Advertising (R)	61900		1,500,000
Total		$	7,000,000

Any unexpended balances remaining in the appropriations for Tourism – Development Opportunity Fund (fund 0245, appropriation 11601), Tourism – Brand Promotion (fund 0246, appropriation 61803), Tourism – Public Relations (fund 0246, appropriation 61804), Tourism – Events and Sponsorships (fund 0246, appropriation 61805), Tourism – Industry Development (fund 0246, appropriation 61806), and State Parks and Recreation Advertising (fund 0246, appropriation 61900) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The Secretary of the Department of Tourism shall have the authority to transfer between the above items of appropriation.

DEPARTMENT OF ECONOMIC DEVELOPMENT

42 - Department of Economic Development –

Office of the Secretary

(WV Code Chapter 5B)

Fund 0256 FY 2023 Org 0307

Personal Services and Employee Benefits	00100	$	4,712,222
Unclassified	09900		108,055
Current Expenses	13000		4,715,464
National Youth Science Camp	13200		241,570
Local Economic Development Partnerships (R)	13300		1,250,000
ARC Assessment	13600		152,585
Guaranteed Work Force Grant (R)	24200		982,630
Mainstreet Program	79400		170,493
BRIM Premium	91300		3,157
Hatfield McCoy Recreational Trail	96000		198,415
Total		$	12,534,591

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), Global Economic Development Partnership (fund 0256, appropriation 20201), and Guaranteed Work Force Grant (fund 0256, appropriation 24200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriation for Current Expenses (fund 0256, appropriation 13000), $50,000 shall be used for the Western Potomac Economic Partnership $100,000 shall be used for Advantage Valley, $548,915 is for West Virginia University, and $298,915 is for Southern West Virginia Community and Technical College for the Mine Training and Energy Technologies Academy.

The above appropriation to Local Economic Development Partnerships (fund 0256, appropriation 13300) shall be used by the Department of Economic Development 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 Department of Economic Development shall award the funding assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed $30,000 per county served by an economic development or redevelopment corporation or authority.

DEPARTMENT OF EDUCATION

43 - State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2023 Org 0402

Personal Services and Employee Benefits	00100	$	360,144
Current Expenses	13000		2,118,865
Total		$	2,479,009

44 - State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2023 Org 0402

Personal Services and Employee Benefits	00100	$	4,719,032
Unclassified (R)	09900		420,000
Current Expenses (R)	13000		4,580,000
Teachers' Retirement Savings Realized	09500		56,337,000
Center for Professional Development (R)	11500		150,000
Increased Enrollment	14000		3,260,000
Safe Schools	14300		4,530,281
Attendance Incentive Bonus (R)	15001		2,056,717
National Teacher Certification (R)	16100		300,000
Jobs & Hope – Childhood			

Drug Prevention Education	21901	5,000,000
Technology Repair and Modernization	29800	951,003
HVAC Technicians	35500	529,650
Early Retirement Notification Incentive	36600	300,000
MATH Program	36800	336,532
Assessment Programs (R)	39600	3,909,374
Benedum Professional Development Collaborative (R)	42700	429,775
Governor's Honors Academy (R)	47800	1,059,270
21st Century Fellows	50700	274,899
English as a Second Language	52800	96,000
Teacher Reimbursement	57300	297,188
Hospitality Training	60000	275,498
Youth in Government	61600	100,000
High Acuity Special Needs (R)	63400	1,500,000
Foreign Student Education	63600	100,899
State Board of Education Administrative Costs	68400	280,429
IT Academy (R)	72100	500,000
Early Literacy Program	75600	5,711,675
School Based Truancy Prevention (R)	78101	2,047,366
Communities in Schools (R)	78103	4,903,026
Mastery Based Education	78104	125,000
Mountain State Digital Literacy Program	86401	415,500
21st Century Learners (R)	88600	1,790,508
BRIM Premium	91300	342,859
21st Century Assessment and Professional Development	93100	2,009,701
21st Century Technology Infrastructure Network Tools and Support (R)	93300	9,764,417
Special Olympic Games	96600	25,000
Educational Program Allowance	99600	516,250
Total		$ 119,944,849

The above appropriations include funding for the state board of education and their executive office.

From the above appropriation for Current Expenses (fund 0313, appropriation 13000), $2,000,000 shall be used for the Department of Education Child Nutrition Program – Non-traditional Child Hunger Solutions.

Any unexpended balances remaining in the appropriations for Unclassified (fund 0313, appropriation 09900), Current Expenses (fund 0313, appropriation 13000), Center for Professional Development (fund 0313, appropriation 11500), Attendance Incentive Bonus (fund 0313, appropriation 15001), National Teacher Certification (fund 0313, appropriation 16100), Assessment Programs (fund 0313, appropriation 39600), Benedum Professional Development Collaborative (fund 0313, appropriation 42700), Governor's Honors Academy (fund 0313, appropriation 47800), High Acuity Special Needs (fund 0313, appropriation 63400), IT Academy (fund 0313, appropriation 72100), School Based Truancy Prevention (fund 0313, appropriation 78101), Communities in Schools (fund 0313, appropriation 78103), 21st Century Learners (fund 0313, appropriation 88600), and 21st Century Technology Infrastructure Network Tools and Support (fund 0313, appropriation 93300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

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).

From the above appropriation for Unclassified (fund 0313, appropriation 09900), $120,000 shall be for assisting low income students with AP and CLEP exam fees.

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 the Morgan County Board of Education for Paw Paw Schools; $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.

45 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2023 Org 0402

Special Education – Counties	15900	$	7,271,757
Special Education – Institutions	16000		4,078,883
Education of Juveniles Held in Predispositional Juvenile Detention Centers	30200		683,479
Education of Institutionalized Juveniles and Adults (R)	47200		21,195,471
Total		$	33,229,590

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 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

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.

46 - State Board of Education –

State Aid to Schools

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2023 Org 0402

Other Current Expenses	02200	$ 159,503,818
Advanced Placement	05300	594,563
Professional Educators	15100	904,942,470
Service Personnel	15200	303,757,447
Fixed Charges	15300	105,298,651
Transportation	15400	65,257,311
Improved Instructional Programs	15600	51,974,496
Professional Student Support Services	65500	61,488,888
21st Century Strategic Technology Learning Growth	93600	26,443,757
Teacher and Leader Induction	93601	5,478,876
Basic Foundation Allowances		1,684,740,277
Less Local Share		(473,697,218)
Adjustments		(2,397,711)
Total Basic State Aid		1,208,645,348
Public Employees' Insurance Matching	01200	214,702,113
Teachers' Retirement System	01900	73,032,069
School Building Authority (R)	45300	24,000,000
Retirement Systems – Unfunded Liability	77500	301,401,000
Total		$ 1,821,780,530

Any unexpended balances remaining in the appropriations for School Building Authority (fund 0317, appropriation 45300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

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

47 - State Board of Education –

Vocational Division

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2023 Org 0402

Personal Services and Employee Benefits	00100	$	1,376,322
Unclassified	09900		268,800
Current Expenses	13000		883,106
Wood Products – Forestry Vocational Program	14600		82,713
Albert Yanni Vocational Program	14700		132,123
Vocational Aid	14800		24,516,692
Adult Basic Education	14900		5,460,891
Jobs & Hope	14902		3,478,337
Program Modernization	30500		884,313
High School Equivalency Diploma Testing (R)	72600		807,935
FFA Grant Awards	83900		11,496
Pre-Engineering Academy Program	84000		265,294
Total		$	38,168,022

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0390, appropriation 14901) and High School Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

48 - State Board of Education –

West Virginia Schools for the Deaf and the Blind

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2023 Org 0403

Personal Services and Employee Benefits	00100	$	10,573,588
Unclassified (R)	09900		110,000
Current Expenses (R)	13000		2,250,696
Repairs and Alterations	06400		164,675
Equipment	07000		77,000

Buildings (R)	25800		45,000
Capital Outlay and Maintenance (R)	75500		1,670,000
BRIM Premium	91300		130,842
Total		$	15,021,801

Any unexpended balances remaining in the appropriations for Unclassified (fund 0320, appropriation 09900), Current Expenses (fund 0320, appropriation 13000), Buildings (fund 0320, appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

49 - Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2023 Org 0432

Personal Services and Employee Benefits	00100	$	3,513,485
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		120,106
Unclassified (R)	09900		28,483
Current Expenses	13000		610,843
Repairs and Alterations	06400		1,000
Equipment	07000		1
WV Humanities Council	16800		250,000
Buildings (R)	25800		1
Other Assets	69000		1
Educational Enhancements	69500		573,500
Land (R)	73000		1
Culture and History Programming	73200		231,573
Capital Outlay and Maintenance (R)	75500		19,600
Historical Highway Marker Program	84400		57,548
BRIM Premium	91300		39,337
Total		$	5,445,479

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), WV Women's Suffragist Memorial (fund 0293, appropriation 22101), 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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The Current Expenses 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.

From the above appropriation for Educational Enhancements (fund 0293, appropriation 69500), $500,000 shall be used for Save the Children and $73,500 shall be used for the Clay Center.

50 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2023 Org 0433

Personal Services and Employee Benefits	00100	$	1,119,022
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		112,000
Current Expenses	13000		139,624
Repairs and Alterations	06400		6,500
Services to Blind & Handicapped	18100		161,717
BRIM Premium	91300		18,205
Total		$	1,557,068

51 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2023 Org 0439

Personal Services and Employee Benefits	00100	$	3,274,206
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		120,106
Current Expenses	13000		113,844
Mountain Stage	24900		300,000
Capital Outlay and Maintenance (R)	75500		49,250
BRIM Premium	91300		47,727
Total		$	3,905,133

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

52 - Environmental Quality Board

(WV Code Chapter 20)

Fund 0270 FY 2023 Org 0311

Personal Services and Employee Benefits	00100	$	88,590
Current Expenses	13000		28,453
Repairs and Alterations	06400		800
Equipment	07000		500
Other Assets	69000		400
BRIM Premium	91300		791
Total		$	119,534

53 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	4,144,818
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		168,000
Current Expenses	13000		85,816
Water Resources Protection and Management	06800		583,086
Dam Safety	60700		245,842
West Virginia Stream Partners Program	63700		77,396
Meth Lab Cleanup	65600		91,888
WV Contributions to River Commissions	77600		148,485
Office of Water Resources Non-Enforcement Activity	85500		1,040,868
Total		$	6,586,199

54 - Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2023 Org 0325

Personal Services and Employee Benefits	00100	$	60,737
Current Expenses	13000		11,612
Repairs and Alterations	06400		800
Equipment	07000		400
Other Assets	69000		200
BRIM Premium	91300		2,304
Total		$	76,053

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

55 - Department of Health and Human Resources –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0400 FY 2023 Org 0501

Personal Services and Employee Benefits	00100	$	387,664
Unclassified	09900		6,459
Current Expenses	13000		50,613
Commission for the Deaf and Hard of Hearing	70400		228,560
Total		$	673,296

56 - Division of Health –

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2023 Org 0506

Personal Services and Employee Benefits	00100	$	13,051,133
Unclassified	09900		671,795
Current Expenses	13000		5,388,459
Chief Medical Examiner (R)	04500		8,887,105
State Aid for Local and Basic Public Health Services	18400		15,672,592
Safe Drinking Water Program (R)	18700		1,915,528
Women, Infants and Children	21000		38,621
Early Intervention	22300		8,134,060
Cancer Registry	22500		211,359
Office of Drug Control Policy (R)	35401		554,230
Statewide EMS Program Support (R)	38300		1,711,912
Office of Medical Cannabis (R)	42001		1,487,219
Black Lung Clinics	46700		170,885
Vaccine for Children	55100		341,261
Tuberculosis Control	55300		335,307
Maternal and Child Health Clinics, Clinicians Medical Contracts and Fees (R)	57500		5,905,414
Epidemiology Support	62600		1,530,473
Primary Care Support	62800		1,233,045
Sexual Assault Intervention			

and Prevention	72300	800,000
Health Right Free Clinics	72700	4,250,000
Capital Outlay and Maintenance (R)	75500	70,000
Healthy Lifestyles	77800	898,169
Maternal Mortality Review	83400	50,841
Diabetes Education and Prevention	87300	97,125
BRIM Premium	91300	169,791
State Trauma and Emergency Care System	91800	1,936,450
WVU Charleston Poison Control Hotline	94400	712,942
Total		$ 76,225,716

Any unexpended balances remaining in the appropriations for Chief Medical Examiner (fund 0407, appropriation 04500), Safe Drinking Water Program (fund 0407, appropriation 18700), Office of Drug Control Policy (fund 0407, appropriation 35401), Office of Drug Control Policy – Surplus (fund 0407, appropriation 35402), Statewide EMS Program Support (fund 0407, appropriation 38300), Office of Medical Cannabis (fund 0407, appropriation 42001), Medical Cannabis Surplus (fund 0407, appropriation 42099), 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), and Tobacco Education Program (fund 0407, appropriation 90600) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

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.

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 $1,000,000 shall be used for the administration of the Telestroke program.

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 2023 Org 0506

Personal Services and Employee Benefits	00100	$ 1,693,100
Current Expenses	13000	14,113
Behavioral Health Program (R)	21900	70,186,648
Institutional Facilities Operations (R)	33500	150,992,263
Substance Abuse Continuum of Care (R)	35400	1,840,000
Capital Outlay and Maintenance (R)	75500	950,000
BRIM Premium	91300	1,296,098
Total		$ 226,972,222

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0525, appropriation 14901), Behavioral Health Program (fund 0525, appropriation 21900), Institutional Facilities Operations (fund 0525, appropriation 33500), Substance Abuse Continuum of Care (fund 0525, appropriation 35400), and Capital

Outlay and Maintenance (fund 0525, appropriation 75500) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

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.

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 2023, 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 2023 Org 0506

West Virginia Drinking Water Treatment 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)

Fund 0416 FY 2023 Org 0510

Personal Services and Employee Benefits	00100	$	1,003,911
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		112,000
Unclassified	09900		4,024
Current Expenses	13000		331,304
BRIM Premium	91300		10,764
Total		$	1,462,003

60 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2023 Org 0511

Personal Services and Employee Benefits	00100	$	56,055,526
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		45,531
Unclassified	09900		5,688,944
Current Expenses	13000		13,050,824
Child Care Development	14400		3,118,451

Medical Services	18900	308,117,213
Social Services	19500	226,056,151
Family Preservation Program	19600	1,565,000
Family Resource Networks	27400	1,762,464
Domestic Violence Legal Services Fund	38400	400,000
James "Tiger" Morton Catastrophic Illness Fund	45500	60,164
I/DD Waiver	46600	108,541,736
Child Protective Services Case Workers	46800	32,251,148
Title XIX Waiver for Seniors	53300	13,593,620
WV Teaching Hospitals Tertiary/Safety Net	54700	6,356,000
In-Home Family Education	68800	1,000,000
WV Works Separate State Program	69800	135,000
Child Support Enforcement	70500	6,711,478
Temporary Assistance for Needy Families/Maintenance of Effort	70700	25,819,096
Child Care – Maintenance of Effort Match	70800	5,693,743
Grants for Licensed Domestic Violence Programs and Statewide Prevention	75000	2,500,000
Capital Outlay and Maintenance (R)	75500	11,875
Community Based Services and Pilot Programs for Youth	75900	1,000,000
Medical Services Administrative Costs	78900	43,681,857
Traumatic Brain Injury Waiver	83500	800,000
Indigent Burials (R)	85100	1,550,000
CHIP Administrative Costs	85601	701,815
CHIP Services	85602	6,390,665
BRIM Premium	91300	892,642
Rural Hospitals Under 150 Beds	94000	2,596,000
Children's Trust Fund – Transfer	95100	220,000
PATH	95400	7,217,367
Total		$ 883,584,310

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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

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 HOMELAND SECURITY

61 - Department of Homeland Security –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0430 FY 2023 Org 0601

Personal Services and Employee Benefits	00100	$	780,510
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		168,000
Unclassified (R)	09900		30,000
Current Expenses	13000		91,636
Repairs and Alterations	06400		500
Equipment	07000		500
Fusion Center (R)	46900		2,739,870
Other Assets	69000		500
Directed Transfer	70000		32,000

BRIM Premium	91300	22,563
WV Fire and EMS Survivor Benefit (R)	93900	200,000
Total		$ 4,066,079

Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, appropriation 09900), Fusion Center (fund 0430, appropriation 46900), 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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

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 - Division of Emergency Management

(WV Code Chapter 15)

Fund 0443 FY 2023 Org 0606

Personal Services and Employee Benefits	00100	$ 2,177,053
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	61,250
Unclassified	09900	21,022
Current Expenses	13000	51,065
Repairs and Alterations	06400	600
Radiological Emergency Preparedness	55400	17,052
SIRN….	55401	600,000
Federal Funds/Grant Match (R)	74900	1,449,990
Mine and Industrial Accident Rapid Response Call Center	78100	489,577
Early Warning Flood System (R)	87700	1,290,499
BRIM Premium	91300	96,529

Total.....		$	6,254,637

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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

63 - Division of Corrections and Rehabilitation –

West Virginia Parole Board

(WV Code Chapter 62)

Fund 0440 FY 2023 Org 0608

Personal Services and			
Employee Benefits.....	00100	$	310,869
Unclassified.....	09900		10,000
Current Expenses	13000		334,440
Salaries of Members of			
West Virginia Parole Board.....	22700		734,286
BRIM Premium.....	91300		6,149
Total.....		$	1,395,744

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.

64 - Division of Corrections and Rehabilitation –

Central Office

(WV Code Chapter 15A)

Fund 0446 FY 2023 Org 0608

Personal Services and			
Employee Benefits.....	00100	$	250,577
Salary and Benefits of Cabinet			

Secretary and Agency Heads	00201		126,000
Current Expenses	13000		2,400
Total		$	378,977

65 - Division of Corrections and Rehabilitation –

Correctional Units

(WV Code Chapter 15A)

Fund 0450 FY 2023 Org 0608

Employee Benefits	01000	$	1,258,136
Unclassified	09900		1,578,800
Current Expenses (R)	13000		57,690,483
Children's Protection Act (R)	09000		838,437
Facilities Planning and Administration (R)	38600		1,274,200
Charleston Correctional Center	45600		3,530,502
Beckley Correctional Center	49000		2,633,846
Anthony Correctional Center	50400		6,281,339
Huttonsville Correctional Center	51400		19,975,709
Northern Correctional Center	53400		8,154,113
Inmate Medical Expenses (R)	53500		62,226,064
Pruntytown Correctional Center	54300		8,946,953
Corrections Academy	56900		1,983,466
Information Technology Services	59901		2,759,052
Martinsburg Correctional Center	66300		4,482,115
Parole Services	68600		6,023,661
Special Services	68700		5,894,456
Investigative Services	71600		3,502,991
Capital Outlay and Maintenance (R)	75500		2,000,000
Salem Correctional Center	77400		11,678,166
McDowell County Correctional Center	79000		2,542,590
Stevens Correctional Center	79100		7,863,195
Parkersburg Correctional Center	82800		6,418,300
St. Mary's Correctional Center	88100		15,081,470
Denmar Correctional Center	88200		5,367,552
Ohio County Correctional Center	88300		2,211,029
Mt. Olive Correctional Complex	88800		23,032,441

Lakin Correctional Center	89600	11,141,496
BRIM Premium	91300	2,527,657
Total		$ 288,898,219

Any unexpended balances remaining in the appropriations for Children's Protection Act (fund 0450, appropriation 09000), Unclassified – Surplus (fund 0450, appropriation 09700), 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 Roof Repairs and Mechanical System Upgrades (fund 0450, appropriation 75502) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The Commissioner of Corrections and Rehabilitation shall have the authority to transfer between appropriations.

From the above appropriation to Current Expenses (fund 0450, appropriation 13000) payment shall be made to house Division of Corrections and Rehabilitation 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).

66 - Division of Corrections and Rehabilitation –

Bureau of Juvenile Services

(WV Code Chapter 15A)

Fund 0570 FY 2023 Org 0608

Statewide Reporting Centers	26200	$ 6,991,498
Robert L. Shell Juvenile Center	26700	2,649,168

Resident Medical Expenses (R)	53501	3,604,999
Central Office	70100	1,779,854
Capital Outlay and Maintenance (R)	75500	250,000
Gene Spadaro Juvenile Center	79300	2,789,569
BRIM Premium	91300	115,967
Kenneth Honey Rubenstein Juvenile Center (R)	98000	5,941,605
Vicki Douglas Juvenile Center	98100	2,471,185
Northern Regional Juvenile Center	98200	2,876,302
Lorrie Yeager Jr. Juvenile Center	98300	2,537,852
Sam Perdue Juvenile Center	98400	2,741,571
Tiger Morton Center	98500	2,754,083
Donald R. Kuhn Juvenile Center	98600	5,287,575
J.M. “Chick” Buckbee Juvenile Center	98700	2,615,359
Total		$ 45,406,587

Any unexpended balances remaining in the appropriations for Resident Medical Expenses (fund 0570, appropriation 53501), Capital Outlay and Maintenance (fund 0570, appropriation 75500), Roof Repairs and Mechanical System Upgrades (fund 0570, appropriation 75502), and Kenneth Honey Rubenstein Juvenile Center (fund 0570, appropriation 98000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The Director of Juvenile Services shall have the authority to transfer between appropriations to the individual juvenile centers above including statewide reporting centers and central office and may transfer funds from the individual juvenile centers to Resident Medical Expenses (fund 0570, appropriation 53501).

67 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2023 Org 0612

Personal Services and Employee Benefits	00100	$ 73,886,203

Salary and Benefits of Cabinet Secretary and Agency Heads	00201	139,300
Children's Protection Act	09000	1,040,805
Current Expenses	13000	10,384,394
Repairs and Alterations	06400	450,523
Trooper Class	52100	3,207,832
Barracks Lease Payments	55600	237,898
Communications and Other Equipment (R)	55800	1,070,968
Trooper Retirement Fund	60500	6,812,749
Handgun Administration Expense	74700	80,918
Capital Outlay and Maintenance (R)	75500	250,000
Retirement Systems – Unfunded Liability	77500	35,000
Automated Fingerprint Identification System	89800	2,229,846
BRIM Premium	91300	5,743,921
Total		$ 105,570,357

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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

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.

68 - Fire Commission

(WV Code Chapter 29)

Fund 0436 FY 2023 Org 0619

Current Expenses	13000	$ 63,061

69 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2023 Org 0622

Personal Services and Employee Benefits	00100	$	3,186,789
Unclassified (R)	09900		21,991
Current Expenses	13000		422,981
Repairs and Alterations	06400		8,500
Equipment (R)	07000		64,171
BRIM Premium	91300		32,602
Total		$	3,737,034

Any unexpended balances remaining in the appropriations for Equipment (fund 0585, appropriation 07000) and Unclassified (fund 0585, appropriation 09900) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

70 - Division of Justice and Community Services

(WV Code Chapter 15A)

Fund 0546 FY 2023 Org 0623

Personal Services and Employee Benefits	00100	$	591,795
Current Expenses (R)	13000		233,360
Repairs and Alterations	06400		1,804
Child Advocacy Centers (R)	45800		2,209,526
Community Corrections (R)	56100		4,599,155
Statistical Analysis Program	59700		50,122
Sexual Assault Forensic Examination Commission (R)	71400		79,340
Qualitative Analysis and Training for Youth Services (R)	76200		136,732
Law Enforcement Professional Standards	83800		170,172
Justice Reinvestment Initiative (R)	89501		2,333,795
BRIM Premium	91300		2,123
Total		$	10,407,924

Any unexpended balances remaining in the appropriations for Current Expenses (fund 0546, appropriation 13000), Child Advocacy Centers (fund 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100), Sexual Assault Forensic Examination Commission (fund 0546 appropriation 71400), Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200), and Justice Reinvestment Initiative (fund 0546, appropriation 89501) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriation for Current Expenses (fund 0546, appropriation 13000), $100,000 shall be used for Court Appointed Special Advocates.

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 Administrative Services

(WV Code Chapter 15A)

Fund 0619 FY 2023 Org 0623

Personal Services and Employee Benefits	00100	$	5,155,206
Unclassified	09900		5,000
Current Expenses	13000		600,000
Total		$	5,760,206

DEPARTMENT OF REVENUE

72 - Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2023 Org 0701

Personal Services and Employee Benefits	00100	$	364,034

Salary and Benefits of Cabinet Secretary and Agency Heads	00201		168,000
Unclassified	09900		437
Current Expenses	13000		81,594
Repairs and Alterations	06400		1,262
Equipment	07000		8,000
Other Assets	69000		500
Total		$	623,827

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, appropriation 09600) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

73 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2023 Org 0702

Personal Services and Employee Benefits (R)	00100	$	19,043,378
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		147,000
Unclassified (R)	09900		174,578
Current Expenses (R)	13000		6,904,635
Repairs and Alterations	06400		10,150
Equipment	07000		54,850
Tax Technology Upgrade	09400		3,700,000
Multi State Tax Commission	65300		77,958
Other Assets	69000		10,000
BRIM Premium	91300		15,579
Total		$	30,138,128

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0470, appropriation 00100), Unclassified (fund 0470, appropriation 09900), Current Expenses (fund 0470, appropriation 13000), and Integrated Tax Assessment System (fund 0470, appropriation

29200) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

74 - State Budget Office

(WV Code Chapter 11B)

Fund 0595 FY 2023 Org 0703

Personal Services and Employee Benefits	00100	$	819,147
Unclassified (R)	09900		9,200
Current Expenses (R)	13000		119,449
Total		$	947,796

Any unexpended balances remaining in the appropriations for Unclassified (fund 0595, appropriation 09900) and Current Expenses (fund 0595, appropriation 13000) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

75 - West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2023 Org 0709

Personal Services and Employee Benefits	00100	$	935,715
Unclassified	09900		5,255
Current Expenses (R)	13000		229,374
BRIM Premium	91300		3,062
Total		$	1,173,406

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

76 - Division of Professional and Occupational Licenses –

State Athletic Commission

(WV Code Chapter 29)

Fund 0523 FY 2023 Org 0933

Personal Services and Employee Benefits	00100	$	7,200
Current Expenses	13000		29,611
Total		$	36,811

DEPARTMENT OF TRANSPORTATION

77 - State Rail Authority

(WV Code Chapter 29)

Fund 0506 FY 2023 Org 0804

Personal Services and Employee Benefits	00100	$	370,704
Current Expenses	13000		287,707
Other Assets (R)	69000		1,270,019
BRIM Premium	91300		201,541
Total		$	2,129,971

Any unexpended balance remaining in the appropriation for Other Assets (fund 0506, appropriation 69000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

78 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2023 Org 0805

Equipment (R)	07000	$	100,000
Current Expenses (R)	13000		2,012,989
Buildings (R)	25800		100,000
Other Assets (R)	69000		50,000
Total		$	2,262,989

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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

79 - Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2023 Org 0807

Personal Services and Employee Benefits	00100	$	229,791
Current Expenses (R)	13000		591,839
Repairs and Alterations	06400		100
BRIM Premium	91300		4,438
Total		$	826,168

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0582, appropriation 13000) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

DEPARTMENT OF VETERANS' ASSISTANCE

80 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2023 Org 0613

Personal Services and Employee Benefits	00100	$	2,212,090
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		110,880
Unclassified	09900		20,000
Current Expenses	13000		245,335
Repairs and Alterations	06400		5,000
Veterans' Field Offices	22800		405,550
Veterans' Nursing Home (R)	28600		7,103,125
Veterans' Toll Free Assistance Line	32800		2,015
Veterans' Reeducation			

Assistance (R)	32900	40,000
Veterans' Grant Program (R)	34200	560,000
Veterans' Grave Markers	47300	10,000
Veterans' Cemetery	80800	402,074
BRIM Premium	91300	50,000
Total		$ 11,166,069

Any unexpended balances remaining in the appropriations for Buildings – Surplus (fund 0456, appropriation 25899), Veterans' Nursing Home (fund 0456, 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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

81 - Department of Veterans' Assistance –

Veterans' Home

(WV Code Chapter 9A)

Fund 0460 FY 2023 Org 0618

Personal Services and		
Employee Benefits	00100	$ 1,296,064
Current Expenses (R)	13000	46,759
Veterans Outreach Programs (R)	61700	203,766
Total		$ 1,546,589

Any unexpended balances remaining in the appropriations for Current Expenses (fund 0460, appropriation 13000) and Veterans Outreach Programs (fund 0456, appropriation 61700) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

BUREAU OF SENIOR SERVICES

82 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 0420 FY 2023 Org 0508

Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens	53900	$	19,612,957

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 with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

The above appropriation is in addition to funding provided in fund 5405 for this program.

WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION

83 - West Virginia Council for Community and Technical College Education – Control Account

(WV Code Chapter 18B)

Fund 0596 FY 2023 Org 0420

West Virginia Council for Community and Technical Education (R)	39200	$	744,232
Transit Training Partnership	78300		34,293
Community College Workforce Development (R)	87800		2,788,387
College Transition Program	88700		278,222
West Virginia Advance Workforce Development (R)	89300		3,121,387
Technical Program			

Development (R)	89400		1,800,735
WV Invests Grant Program (R)	89401		7,037,672
Total		$	15,804,928

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), Technical Program Development (fund 0596, appropriation 89400), and WV Invests Grant Program (fund 0596, appropriation 89401) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

84 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2023 Org 0444

Mountwest Community and Technical College	48700	$	6,716,176

85 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2023 Org 0445

New River Community and Technical College	35800	$	6,088,539

86 - Pierpont Community and Technical College

(WV Code Chapter 18B)

Fund 0597 FY 2023 Org 0446

Pierpont Community and Technical College	93000	$	8,119,152

87 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2023 Org 0447

Blue Ridge Community and Technical College	88500	$	8,139,835

88 - West Virginia University at Parkersburg

(WV Code Chapter 18B)

Fund 0351 FY 2023 Org 0464

West Virginia University – Parkersburg	47100	$	10,799,686

89 - Southern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0380 FY 2023 Org 0487

Southern West Virginia Community and Technical College	44600	$	8,557,086

90 - West Virginia Northern Community and Technical College

(WV Code Chapter 18B)

Fund 0383 FY 2023 Org 0489

West Virginia Northern Community and Technical College	44700	$	7,580,697

91 - Eastern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0587 FY 2023 Org 0492

Eastern West Virginia Community and Technical College	41200	$	2,264,340

92 - BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2023 Org 0493

BridgeValley Community and Technical College	71700	$	8,364,587

HIGHER EDUCATION POLICY COMMISSION

93 - Higher Education Policy Commission – Administration – Control Account

(WV Code Chapter 18B)

Fund 0589 FY 2023 Org 0441

Personal Services and Employee Benefits	00100	$	2,789,394
Current Expenses	13000		1,096,902
RHI Program and Site Support – RHEP Program Administration (R)	03700		80,000
Mental Health Provider Loan Repayment (R)	11301		330,000
Higher Education Grant Program	16400		40,619,864
Tuition Contract Program (R)	16500		1,225,412
Underwood-Smith Scholarship Program-Student Awards	16700		628,349
Facilities Planning and Administration	38600		1,760,254
Higher Education System Initiatives	48801		1,635,847

PROMISE Scholarship – Transfer	80000	18,500,000
HEAPS Grant Program (R)	86700	5,017,974
Health Professionals' Student Loan Program (R)	86701	547,470
BRIM Premium	91300	17,817
Total		$ 74,249,283

Any unexpended balances remaining in the appropriations for RHI Program and Site Support – RHEP Program Administration (fund 0589, 03700), Mental Health Provider Loan Repayment (fund 0589, appropriation 11301), Tuition Contract Program (fund 0589, appropriation 16500), Workforce Development Initiative (fund 0589, appropriation 52901), HEAPS Grant Program (fund 0589, appropriation 86700), and Health Professionals' Student Loan Program (fund 0589, appropriation 86701) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

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 (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.

94 - West Virginia University –

School of Medicine

Medical School Fund

(WV Code Chapter 18B)

Fund 0343 FY 2023 Org 0463

WVU School of Health Science – Eastern Division	05600	$	2,277,794
WVU – School of Health Sciences	17400		15,490,163
WVU – School of Health Sciences – Charleston Division	17500		2,351,833
Rural Health Outreach Programs (R)	37700		165,979
West Virginia University School of Medicine BRIM Subsidy	46000		1,203,087
Total		$	21,488,856

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0343, appropriation 37700) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

95 - West Virginia University –

General Administrative Fund

(WV Code Chapter 18B)

Fund 0344 FY 2023 Org 0463

West Virginia University	45900	$	85,166,182
Jackson's Mill (R)	46100		502,471
West Virginia University Institute of Technology	47900		8,320,240
State Priorities – Brownfield Professional Development (R)	53100		316,556
Energy Express (R)	86100		382,935
West Virginia University –			

Potomac State	99400	4,709,664
Total		$ 99,398,048

Any unexpended balances remaining in the appropriations for Jackson's Mill (fund 0344, appropriation 46100), State Priorities – Brownfield Professional Development (fund 0344, appropriation 53100), and Energy Express (fund 0344, appropriation 86100) at the close of fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

96 - Marshall University –

School of Medicine

(WV Code Chapter 18B)

Fund 0347 FY 2023 Org 0471

Marshall Medical School	17300	$ 12,772,947
Rural Health Outreach Programs (R)	37700	157,572
Forensic Lab (R)	37701	227,415
Center for Rural Health (R)	37702	161,043
Marshall University Medical School BRIM Subsidy	44900	872,612
Total		$ 14,191,589

Any unexpended balances remaining in the appropriations for Rural Health Outreach Program (fund 0347, appropriation 37700), Forensic Lab (fund 0347, appropriation 37701), and Center for Rural Health (fund 0347, appropriation 37702) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

97 - Marshall University –

General Administration Fund

(WV Code Chapter 18B)

Fund 0348 FY 2023 Org 0471

Marshall University	44800	$ 40,961,949

Luke Lee Listening			
Language and Learning Lab (R)	44801		151,939
Vista E-Learning (R)	51900		229,019
State Priorities – Brownfield			
Professional Development (R)	53100		309,606
Marshall University Graduate			
College Writing Project (R)	80700		25,412
WV Autism Training Center (R)	93200		1,869,776
Total		$	43,547,701

Any unexpended balances remaining in the appropriations for Luke Lee Listening Language and Learning Lab (fund 0348, appropriation 44801), 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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

98 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2023 Org 0476

West Virginia School of			
Osteopathic Medicine	17200	$	9,147,095
Rural Health Outreach Programs (R)	37700		169,035
West Virginia School of			
Osteopathic Medicine			
BRIM Subsidy	40300		153,405
Rural Health Initiative – Medical			
Schools Support	58100		403,439
Total		$	9,872,974

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

99 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2023 Org 0482

Bluefield State College	40800	$	6,648,770

100 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2023 Org 0483

Concord University	41000	$	10,836,709

101 - Fairmont State University

(WV Code Chapter 18B)

Fund 0360 FY 2023 Org 0484

Fairmont State University	41400	$	19,273,190

102 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2023 Org 0485

Glenville State College	42800	$	6,768,535

103 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2023 Org 0486

Shepherd University	43200	$	13,026,830

104 - West Liberty University

(WV Code Chapter 18B)

Fund 0370 FY 2023 Org 0488

West Liberty University	43900	$	9,552,600

105 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2023 Org 0490

West Virginia State University	44100	$	11,680,098
West Virginia State University Land Grant Match	95600		2,950,192
Total		$	14,630,290

From the above appropriation for West Virginia State University (fund 0373, appropriation 44100), $300,000 shall be for the Healthy Grandfamilies program.

106 - Higher Education Policy Commission –

Administration -

West Virginia Network for Educational Telecomputing (WVNET)

(WV Code Chapter 18B)

Fund 0551 FY 2023 Org 0495

WVNET	16900	$	1,817,992

MISCELLANEOUS BOARDS AND COMMISSIONS

107 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 0433 FY 2023 Org 0603

Salary and Benefits of Cabinet Secretary and Agency Heads	00201	$	189,000

Unclassified (R)	09900	106,798
College Education Fund	23200	4,000,000
Civil Air Patrol	23400	249,664
Armory Board Transfer	70015	2,317,555
Mountaineer ChalleNGe Academy	70900	3,324,624
Military Authority (R)	74800	6,251,727
Drug Enforcement and Support	74801	1,532,374
Total		$ 17,971,742

Any unexpended balances remaining in the appropriations for Unclassified (fund 0433, appropriation 09900), Military Authority (fund 0433, appropriation 74800), and Military Authority – Surplus (fund 0433, appropriation 74899) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

From the above appropriations an amount approved by the Adjutant General may be transferred to the State Armory Board for operation and maintenance of National Guard Armories.

The adjutant general shall have the authority to transfer between appropriations.

From the above appropriation and other state and federal funding, the Adjutant General shall provide an amount not less than $3,324,624 to the Mountaineer ChalleNGe Academy to meet anticipated program demand.

108 - Adjutant General –

Military Fund

(WV Code Chapter 15)

Fund 0605 FY 2023 Org 0603

Personal Services and Employee Benefits	00100	$ 100,000
Current Expenses	13000	57,775
Total		$ 157,775

Total TITLE II, Section 1 –

General Revenue (Including claims against the state)	$ 4,641,378,000

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 2023.

DEPARTMENT OF TRANSPORTATION

109 - Division of Motor Vehicles

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20, and 24A)

Fund 9007 FY 2023 Org 0802

	Appro-Priation	State Road Fund
Personal Services and Employee Benefits	00100	$ 36,894,264
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	129,500
Current Expenses	13000	22,334,363
Repairs and Alterations	06400	144,000
Equipment	07000	1,080,000
Buildings	25800	10,000
Other Assets	69000	2,480,000
BRIM Premium	91300	75,117
Total		$ 63,147,244

110 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2023 Org 0803

Salary and Benefits of Cabinet Secretary and Agency Heads	00201	$ 200,000
Debt Service	04000	135,500,000

Maintenance	23700	551,081,528
Inventory Revolving	27500	4,000,000
Equipment Revolving	27600	19,400,841
General Operations	27700	156,842,168
Interstate Construction	27800	115,000,000
Other Federal Aid Programs	27900	345,000,000
Appalachian Programs	28000	100,000,000
Highway Litter Control	28200	1,650,000
Total		$ 1,428,674,537

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.

Total TITLE II, Section 2 – State Road Fund (Including claims against the state)	$ 1,492,255,013

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 2023.

LEGISLATIVE

111 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 1731 FY 2023 Org 2300

	Appro-priation		Other Funds
Personal Services and Employee Benefits	00100	$	498,020
Current Expenses	13000		133,903
Repairs and Alterations	06400		1,000
Economic Loss Claim Payment Fund	33400		2,000,000
Other Assets	69000		3,700
Total		$	2,636,623

JUDICIAL

112 - Supreme Court –

Court Advanced Technology Subscription Fund

(WV Code Chapter 51)

Fund 1704 FY 2023 Org 2400

Current Expenses	13000	$	100,000

113 - Supreme Court –

Adult Drug Court Participation Fund

(WV Code Chapter 62)

Fund 1705 FY 2023 Org 2400

Current Expenses	13000	$	200,000

114 - Supreme Court –

Family Court Fund

(WV Code Chapter 51)

Fund 1763 FY 2023 Org 2400

Current Expenses	13000	$	1,050,000

115 - Supreme Court –

Court Facilities Maintenance Fund

(WV Code Chapter 51)

Fund 1766 FY 2023 Org 2400

Current Expenses	13000	$	250,000
Repairs and Alterations	06400		250,000
Total		$	500,000

EXECUTIVE

116 - Governor's Office –

Minority Affairs Fund

(WV Code Chapter 5)

Fund 1058 FY 2023 Org 0100

Personal Services and Employee Benefits	00100	$	233,788
Current Expenses	13000		453,200
Martin Luther King, Jr. Holiday Celebration	03100		8,926
Total		$	695,914

117 - Auditor's Office –

Grant Recovery Fund

(WV Code Chapter 12)

Fund 1205 FY 2023 Org 1200

Repairs and Alterations	06400	$	2,000
Equipment	07000		7,000
Current Expenses	13000		191,000
Total		$	200,000

118 - Auditor's Office –

Land Operating Fund

(WV Code Chapters 11A, 12, and 36)

Fund 1206 FY 2023 Org 1200

Personal Services and Employee Benefits	00100	$	832,826
Unclassified	09900		15,139
Current Expenses	13000		715,291
Repairs and Alterations	06400		2,600
Equipment	07000		426,741
Cost of Delinquent Land Sales	76800		1,841,168
Total		$	3,833,765

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 direct expenses relating to land sales as provided in Chapter 11A of the West Virginia Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

119 - Auditor's Office –

Local Government Purchasing Card Expenditure Fund

(WV Code Chapter 6)

Fund 1224 FY 2023 Org 1200

Personal Services and Employee Benefits	00100	$	639,881
Current Expenses	13000		282,030
Repairs and Alterations	06400		6,000
Equipment	07000		10,805
Other Assets	69000		50,000
Statutory Revenue Distribution	74100		3,500,000
Total		$	4,488,716

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.

120 - Auditor's Office –

Securities Regulation Fund

(WV Code Chapter 32)

Fund 1225 FY 2023 Org 1200

Personal Services and Employee Benefits	00100	$	2,826,332
Unclassified	09900		31,866
Current Expenses	13000		1,463,830
Repairs and Alterations	06400		12,400
Equipment	07000		594,700
Other Assets	69000		1,200,000
Total		$	6,129,128

121 - Auditor's Office –

Technology Support and Acquisition Fund

(WV Code Chapter 12)

Fund 1233 FY 2023 Org 1200

Current Expenses	13000	$	10,000
Other Assets	69000		5,000
Total		$	15,000

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.

122 - Auditor's Office –

Purchasing Card Administration Fund

(WV Code Chapter 12)

Fund 1234 FY 2023 Org 1200

Personal Services and Employee Benefits	00100	$	3,192,502
Current Expenses	13000		2,303,622
Repairs and Alterations	06400		5,500
Equipment	07000		850,000
Other Assets	69000		508,886
Statutory Revenue Distribution	74100		8,000,000
Total		$	14,860,510

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 Entrepreneurship and Innovation Investment Fund (fund 3014), the Hatfield-McCoy Regional Recreation Authority, and the State Park Operating Fund (fund 3265) per W.Va. Code §12-3-10d.

123 - Auditor's Office –

Chief Inspector's Fund

(WV Code Chapter 6)

Fund 1235 FY 2023 Org 1200

Personal Services and Employee Benefits	00100	$	3,682,850
Current Expenses	13000		765,915
Equipment	07000		50,000
Total		$	4,498,765

124 - Auditor's Office –

Volunteer Fire Department Workers'

Compensation Premium Subsidy Fund

(WV Code Chapters 12 and 33)

Fund 1239 FY 2023 Org 1200

Volunteer Fire Department Workers' Compensation Subsidy	83200	$	2,500,000

125 - Treasurer's Office –

College Prepaid Tuition and Savings Program

Administrative Account

(WV Code Chapter 18)

Fund 1301 FY 2023 Org 1300

Personal Services and Employee Benefits	00100	$	830,643
Unclassified	09900		14,000
Current Expenses	13000		1,397,559
Total		$	2,242,202

126 - Treasurer's Office-

Jumpstart Savings Program Expense Fund

(WV Code Chapter 18)

Fund 1303 FY 2023 Org 1300

Unclassified	09900	$	188,502
Current Expenses	13000		411,498
Total		$	600,000

127 - Department of Agriculture –

Agriculture Fees Fund

(WV Code Chapter 19)

Fund 1401 FY 2023 Org 1400

Personal Services and Employee Benefits	00100	$	2,534,889
Unclassified	09900		37,425
Current Expenses	13000		1,856,184
Repairs and Alterations	06400		158,500
Equipment	07000		436,209
Other Assets	69000		10,000
Total		$	5,033,207

128 - Department of Agriculture –

West Virginia Rural Rehabilitation Program

(WV Code Chapter 19)

Fund 1408 FY 2023 Org 1400

Personal Services and Employee Benefits	00100	$	80,974
Unclassified	09900		10,476
Current Expenses	13000		2,200,000
Total		$	2,291,450

129 - Department of Agriculture –

General John McCausland Memorial Farm Fund

(WV Code Chapter 19)

Fund 1409 FY 2023 Org 1400

Personal Services and Employee Benefits	00100	$	76,415
Unclassified	09900		2,100
Current Expenses	13000		89,500
Repairs and Alterations	06400		36,400
Equipment	07000		15,000
Total		$	219,415

The above appropriations shall be expended in accordance with Article 26, Chapter 19 of the Code.

130 - Department of Agriculture –

Farm Operating Fund

(WV Code Chapter 19)

Fund 1412 FY 2023 Org 1400

Personal Services and Employee Benefits	00100	$	888,219
Unclassified	09900		15,173
Current Expenses	13000		1,367,464
Repairs and Alterations	06400		388,722
Equipment	07000		399,393
Other Assets	69000		20,000
Total		$	3,078,971

131 - Department of Agriculture –

Capital Improvements Fund

(WV Code Chapter 19)

Fund 1413 FY 2023 Org 1400

Unclassified	09900	20,000
Current Expenses	13000	510,000

Repairs and Alterations	06400		250,000
Equipment	07000		350,000
Building Improvements	25800		670,000
Other Assets	69000		200,000
Total		$	2,000,000

132 - Department of Agriculture –

Donated Food Fund

(WV Code Chapter 19)

Fund 1446 FY 2023 Org 1400

Personal Services and Employee Benefits	00100	$	1,074,322
Unclassified	09900		45,807
Current Expenses	13000		3,410,542
Repairs and Alterations	06400		128,500
Equipment	07000		10,000
Other Assets	69000		27,000
Land	73000		250,000
Total		$	4,946,171

133 - Department of Agriculture –

Integrated Predation Management Fund

(WV Code Chapter 7)

Fund 1465 FY 2023 Org 1400

Current Expenses	13000	$	112,500

134 - Department of Agriculture –

West Virginia Spay Neuter Assistance Fund

(WV Code Chapter 19)

Fund 1481 FY 2023 Org 1400

Current Expenses	13000	$	600,000

135 - Department of Agriculture –

Veterans and Warriors to Agriculture Fund

(WV Code Chapter 19)

Fund 1483 FY 2023 Org 1400

Current Expenses	13000	$	7,500

136 - Department of Agriculture –

State FFA-FHA Camp and Conference Center

(WV Code Chapters 18 and 18A)

Fund 1484 FY 2023 Org 1400

Personal Services and Employee Benefits	00100	$	1,218,564
Unclassified	09900		17,000
Current Expenses	13000		1,143,306
Repairs and Alterations	06400		82,500
Equipment	07000		76,000
Buildings	25800		1,000
Other Assets	69000		10,000
Land	73000		1,000
Total		$	2,549,370

137 - Attorney General –

Antitrust Enforcement Fund

(WV Code Chapter 47)

Fund 1507 FY 2023 Org 1500

Personal Services and Employee Benefits	00100	$	363,466
Current Expenses	13000		148,803
Repairs and Alterations	06400		1,000

Equipment	07000		1,000
Total		$	514,269

138 - Attorney General –

Preneed Burial Contract Regulation Fund

(WV Code Chapter 47)

Fund 1513 FY 2023 Org 1500

Personal Services and Employee Benefits	00100	$	228,620
Current Expenses	13000		54,615
Repairs and Alterations	06400		1,000
Equipment	07000		1,000
Total		$	285,235

139 - Attorney General –

Preneed Funeral Guarantee Fund

(WV Code Chapter 47)

Fund 1514 FY 2023 Org 1500

Current Expenses	13000	$	901,135

140 - Secretary of State –

Service Fees and Collection Account

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2023 Org 1600

Personal Services and Employee Benefits	00100	$	1,110,490
Unclassified	09900		4,524
Current Expenses	13000		8,036
Total		$	1,123,050

141 - Secretary of State –

General Administrative Fees Account

(WV Code Chapters 3, 5, and 59)

Fund 1617 FY 2023 Org 1600

Personal Services and Employee Benefits	00100	$	3,041,423
Unclassified	09900		25,529
Current Expenses	13000		976,716
Technology Improvements	59900		870,000
Total		$	4,913,668

DEPARTMENT OF ADMINISTRATION

142 - Department of Administration –

Office of the Secretary –

Tobacco Settlement Fund

(WV Code Chapter 4)

Fund 2041 FY 2023 Org 0201

Tobacco Settlement Securitization Trustee Pass Thru	65000	$	80,000,000

143 - Department of Administration –

Office of the Secretary –

Employee Pension and Health Care Benefit Fund

(WV Code Chapter 18)

Fund 2044 FY 2023 Org 0201

Current Expenses	13000	$	56,337,000

The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be transferred to the Consolidated

Public Retirement Board – Teachers' Accumulation Fund (fund 2600).

144 - Department of Administration –

Division of Finance –

Shared Services Section Fund

(WV Code Chapter 5A)

Fund 2020 FY 2023 Org 0209

Personal Services and Employee Benefits	00100	$	1,545,384
Current Expenses	13000		500,000
Total		$	2,045,384

145 - Division of Information Services and Communications

(WV Code Chapter 5A)

Fund 2220 FY 2023 Org 0210

Personal Services and Employee Benefits	00100	$	23,052,937
Unclassified	09900		344,119
Current Expenses	13000		13,418,001
Equipment	07000		2,050,000
Other Assets	69000		1,045,000
Total		$	39,910,057

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.

146 - Division of Purchasing –

Vendor Fee Fund

(WV Code Chapter 5A)

Fund 2263 FY 2023 Org 0213

Personal Services and Employee Benefits	00100	$	579,296
Current Expenses	13000		9,115
BRIM Premium	91300		810
Total		$	589,221

147 - Division of Purchasing –

Purchasing Improvement Fund

(WV Code Chapter 5A)

Fund 2264 FY 2023 Org 0213

Personal Services and Employee Benefits	00100	$	992,206
Unclassified	09900		5,562
Current Expenses	13000		492,066
Repairs and Alterations	06400		500
Equipment	07000		500
Other Assets	69000		500
BRIM Premium	91300		850
Total		$	1,492,184

148 - Travel Management –

Aviation Fund

(WV Code Chapter 5A)

Fund 2302 FY 2023 Org 0215

Unclassified	09900	$	1,000
Current Expenses	13000		149,700

Repairs and Alterations	06400		1,275,237
Equipment	07000		1,000
Buildings	25800		100
Other Assets	69000		100
Land	73000		100
Total		$	1,427,237

149 - Fleet Management Division Fund

(WV Code Chapter 5A)

Fund 2301 FY 2023 Org 0216

Personal Services and Employee Benefits	00100	$	784,375
Unclassified	09900		4,000
Current Expenses	13000		11,630,614
Repairs and Alterations	06400		12,000
Equipment	07000		800,000
Other Assets	69000		2,000
Total		$	13,232,989

150 - Division of Personnel

(WV Code Chapter 29)

Fund 2440 FY 2023 Org 0222

Personal Services and Employee Benefits	00100	$	4,781,898
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		122,500
Unclassified	09900		51,418
Current Expenses	13000		1,262,813
Repairs and Alterations	06400		5,000
Equipment	07000		20,000
Other Assets	69000		60,000
Total		$	6,303,629

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Personnel.

151 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 2521 FY 2023 Org 0228

Personal Services and Employee Benefits	00100	$	136,097
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		119,000
Unclassified	09900		4,023
Current Expenses	13000		297,528
Repairs and Alterations	06400		600
Equipment	07000		500
Other Assets	69000		500
Total		$	558,248

152 - Office of Technology –

Chief Technology Officer Administration Fund

(WV Code Chapter 5A)

Fund 2531 FY 2023 Org 0231

Personal Services and Employee Benefits	00100	$	454,411
Unclassified	09900		6,949
Current Expenses	13000		196,504
Repairs and Alterations	06400		1,000
Equipment	07000		50,000
Other Assets	69000		10,000
Total		$	718,864

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

153 - Division of Forestry

(WV Code Chapter 19)

Fund 3081 FY 2023 Org 0305

Personal Services and Employee Benefits	00100	$	382,137
Current Expenses	13000		282,202
Repairs and Alterations	06400		53,000
Equipment	07000		300,000
Total		$	1,017,339

154 - Division of Forestry –

Timbering Operations Enforcement Fund

(WV Code Chapter 19)

Fund 3082 FY 2023 Org 0305

Personal Services and Employee Benefits	00100	$	248,321
Current Expenses	13000		87,036
Repairs and Alterations	06400		11,250
Total		$	346,607

155 - Division of Forestry –

Severance Tax Operations

(WV Code Chapter 11)

Fund 3084 FY 2023 Org 0305

Personal Services and Employee Benefits	00100	$	559,626
Current Expenses	13000		117,466
Total		$	677,092

156 - Geological and Economic Survey –

Geological and Analytical Services Fund

(WV Code Chapter 29)

Fund 3100 FY 2023 Org 0306

Personal Services and Employee Benefits	00100	$	37,966
Unclassified	09900		2,182
Current Expenses	13000		141,631
Repairs and Alterations	06400		50,000
Equipment	07000		20,000
Other Assets	69000		10,000
Total		$	261,779

The above appropriations shall be used in accordance with W.Va. Code §29-2-4.

157 - Division of Labor –

West Virginia Jobs Act Fund

(WV Code Chapter 21)

Fund 3176 FY 2023 Org 0308

Current Expenses	13000		75,000
Equipment	07000		25,000
Total		$	100,000

158 - Division of Labor –

HVAC Fund

(WV Code Chapter 21)

Fund 3186 FY 2023 Org 0308

Personal Services and Employee Benefits	00100	$	367,925
Unclassified	09900		4,000
Current Expenses	13000		82,000

Repairs and Alterations	06400		4,500
Buildings	25800		1,000
BRIM Premium	91300		8,500
Total		$	467,925

159 - Division of Labor –

Elevator Safety Fund

(WV Code Chapter 21)

Fund 3188 FY 2023 Org 0308

Personal Services and Employee Benefits	00100	$	304,756
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		104,180
Unclassified	09900		2,261
Current Expenses	13000		94,712
Repairs and Alterations	06400		2,000
Buildings	25800		1,000
BRIM Premium	91300		8,500
Total		$	517,409

160 - Division of Labor –

Steam Boiler Fund

(WV Code Chapter 21)

Fund 3189 FY 2023 Org 0308

Personal Services and Employee Benefits	00100	$	80,742
Unclassified	09900		1,000
Current Expenses	13000		20,000
Repairs and Alterations	06400		2,000
Buildings	25800		1,000
BRIM Premium	91300		1,000
Total		$	105,742

161 - Division of Labor –

Crane Operator Certification Fund

(WV Code Chapter 21)

Fund 3191 FY 2023 Org 0308

Personal Services and Employee Benefits	00100	$	196,226
Unclassified	09900		1,380
Current Expenses	13000		51,265
Repairs and Alterations	06400		1,500
Buildings	25800		1,000
BRIM Premium	91300		7,000
Total		$	258,371

162 - Division of Labor –

Amusement Rides and Amusement Attraction Safety Fund

(WV Code Chapter 21)

Fund 3192 FY 2023 Org 0308

Personal Services and Employee Benefits	00100	$	192,424
Unclassified	09900		1,281
Current Expenses	13000		44,520
Repairs and Alterations	06400		2,000
Buildings	25800		1,000
BRIM Premium	91300		8,500
Total		$	249,725

163 - Division of Labor –

State Manufactured Housing Administration Fund

(WV Code Chapter 21)

Fund 3195 FY 2023 Org 0308

Personal Services and Employee Benefits	00100	$	294,645

Unclassified	09900		1,847
Current Expenses	13000		43,700
Repairs and Alterations	06400		1,000
Buildings	25800		1,000
BRIM Premium	91300		3,404
Total		$	345,596

164 - Division of Labor –

Weights and Measures Fund

(WV Code Chapter 47)

Fund 3196 FY 2023 Org 0308

Unclassified	09900	$	1,200
Current Expenses	13000		93,000
Repairs and Alterations	06400		10,000
Equipment	07000		10,000
BRIM Premium	91300		7,000
Total		$	121,200

165 - Division of Labor –

Bedding and Upholstery Fund

(WV Code Chapter 21)

Fund 3198 FY 2023 Org 0308

Personal Services and Employee Benefits	00100	$	152,270
Unclassified	09900		2,000
Current Expenses	13000		145,400
Repairs and Alterations	06400		2,000
Buildings	25800		1,000
BRIM Premium	91300		8,700
Total		$	311,370

166 - Division of Labor –

Psychophysiological Examiners Fund

(WV Code Chapter 21)

Fund 3199 FY 2023 Org 0308

Current Expenses	13000	$	4,000

167 - Division of Natural Resources –

License Fund – Wildlife Resources

(WV Code Chapter 20)

Fund 3200 FY 2023 Org 0310

Wildlife Resources	02300	$	9,759,535
Administration	15500		2,405,642
Capital Improvements and Land Purchase (R)	24800		2,410,936
Law Enforcement	80600		9,787,279
Total		$	24,363,392

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 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

168 - Division of Natural Resources –

Natural Resources Game Fish and Aquatic Life Fund

(WV Code Chapter 22)

Fund 3202 FY 2023 Org 0310

Current Expenses	13000	$	125,000

169 - Division of Natural Resources –

Nongame Fund

(WV Code Chapter 20)

Fund 3203 FY 2023 Org 0310

Personal Services and Employee Benefits	00100	$	694,154
Current Expenses	13000		201,810
Equipment	07000		106,615
Total		$	1,002,579

170 - Division of Natural Resources –

Planning and Development Division

(WV Code Chapter 20)

Fund 3205 FY 2023 Org 0310

Personal Services and Employee Benefits	00100	$	467,117
Current Expenses	13000		1,056,876
Repairs and Alterations	06400		15,016
Equipment	07000		8,300
Buildings	25800		8,300
Other Assets	69000		1,900,000
Land	73000		31,700
Total		$	3,487,309

171 - Division of Natural Resources –

State Parks and Recreation Endowment Fund

(WV Code Chapter 20)

Fund 3211 FY 2023 Org 0310

Current Expenses	13000	$	6,000
Repairs and Alterations	06400		3,000
Equipment	07000		2,000
Buildings	25800		3,000
Other Assets	69000		4,000
Land	73000		2,000

Total		$	20,000

172 - Division of Natural Resources –

Whitewater Study and Improvement Fund

(WV Code Chapter 20)

Fund 3253 FY 2023 Org 0310

Personal Services and Employee Benefits	00100	$	70,667
Current Expenses	13000		64,778
Equipment	07000		1,297
Buildings	25800		6,969
Total		$	143,711

173 - Division of Natural Resources –

Whitewater Advertising and Promotion Fund

(WV Code Chapter 20)

Fund 3256 FY 2023 Org 0310

Unclassified	09900	$	200
Current Expenses	13000		19,800
Total		$	20,000

174 - Division of Miners' Health, Safety and Training –

Special Health, Safety and Training Fund

(WV Code Chapter 22A)

Fund 3355 FY 2023 Org 0314

Personal Services and Employee Benefits	00100	$	516,356
Unclassified	09900		40,985
Current Expenses	13000		1,954,557
WV Mining Extension Service	02600		150,000
Buildings	25800		2,481,358

Land	73000		1,000,000
Total		$	6,143,256

175 - Department of Commerce –

Office of the Secretary –

Marketing and Communications Operating Fund

(WV Code Chapter 5B)

Fund 3002 FY 2023 Org 0327

Personal Services and Employee Benefits	00100	$	2,148,018
Unclassified	09900		30,000
Current Expenses	13000		1,315,078
Equipment	07000		36,000
Total		$	3,529,096

176 - Department of Commerce –

Office of the Secretary –

Broadband Enhancement Fund

(WV Code Chapter 31G)

Fund 3013 FY 2023 Org 0327

Personal Services and Employee Benefits	00100	$	131,682
Current Expenses	13000		1,648,318
Total		$	1,780,000

177 - State Board of Rehabilitation –

Division of Rehabilitation Services –

West Virginia Rehabilitation Center Special Account

(WV Code Chapter 18)

Fund 8664 FY 2023 Org 0932

Personal Services and Employee Benefits	00100	$	119,738
Current Expenses	13000		1,180,122
Repairs and Alterations	06400		85,500
Equipment	07000		220,000
Buildings	25800		150,000
Other Assets	69000		150,000
Total		$	1,905,360

DEPARTMENT OF ECONOMIC DEVELOPMENT

178 - Department of Economic Development –

Office of Energy –

Energy Assistance

(WV Code Chapter 5B)

Fund 3010 FY 2023 Org 0307

Energy Assistance - Total	64700	$	7,211

179 - Department of Economic Development –

Office of the Secretary –

Entrepreneurship and Innovation Investment Fund

(WV Code Chapter 5B)

Fund 3014 FY 2023 Org 0307

Entrepreneurship and Innovation Investment Fund	70301	$	1,500,000

180 - Department of Economic Development –

Office of the Secretary –

Broadband Development Fund

(WV Code Chapter 31G)

Fund 3034 FY 2023 Org 0307

Personal Services and Employee Benefits	00100	$	647,075
Unclassified	09900		2,000,000
Current Expenses	13000		235,302,925
Total		$	237,950,000

181 - Department of Economic Development –

Office of the Secretary –

Office of Coalfield Community Development

(WV Code Chapter 5B)

Fund 3162 FY 2023 Org 0307

Personal Services and Employee Benefits	00100	$	438,687
Unclassified	09900		8,300
Current Expenses	13000		399,191
Total		$	846,178

DEPARTMENT OF EDUCATION

182 - State Board of Education –

Strategic Staff Development

(WV Code Chapter 18)

Fund 3937 FY 2023 Org 0402

Personal Services and Employee Benefits	00100	$	35,000
Unclassified	09900		26,000
Current Expenses	13000		2,539,000
Total		$	2,600,000

183 - School Building Authority –

School Construction Fund

(WV Code Chapters 18 and 18A)

Fund 3952 FY 2023 Org 0404

SBA Construction Grants	24000	$	59,845,818
Directed Transfer	70000		1,371,182
Total		$	61,217,000

The above appropriation for Directed Transfer (fund 3952, appropriation 70000) shall be transferred to the School Building Authority Fund (fund 3959) for the administrative expenses of the School Building Authority.

184 - School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2023 Org 0404

Personal Services and Employee Benefits	00100	$	1,171,429
Current Expenses	13000		244,195
Repairs and Alterations	06400		13,150
Equipment	07000		26,000
Total		$	1,454,774

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

185 - Division of Culture and History –

Public Records and Preservation Revenue Account

(WV Code Chapter 5A)

Fund 3542 FY 2023 Org 0432

Personal Services and Employee Benefits	00100	$	235,943
Current Expenses	13000		862,241
Equipment	07000		75,000

Buildings	25800		1,000
Other Assets	69000		52,328
Land	73000		1,000
Total		$	1,227,512

DEPARTMENT OF ENVIRONMENTAL PROTECTION

186 - Solid Waste Management Board

(WV Code Chapter 22C)

Fund 3288 FY 2023 Org 0312

Personal Services and Employee Benefits	00100	$	869,535
Current Expenses	13000		2,060,457
Repairs and Alterations	06400		1,000
Equipment	07000		5,000
Other Assets	69000		4,403
Total		$	2,940,395

187 - Division of Environmental Protection –

Hazardous Waste Management Fund

(WV Code Chapter 22)

Fund 3023 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	805,575
Unclassified	09900		8,072
Current Expenses	13000		155,969
Repairs and Alterations	06400		500
Equipment	07000		1,505
Other Assets	69000		2,000
Total		$	973,621

188 - Division of Environmental Protection –

Air Pollution Education and Environment Fund

(WV Code Chapter 22)

Fund 3024 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	806,186
Unclassified	09900		14,647
Current Expenses	13000		876,863
Repairs and Alterations	06400		13,000
Equipment	07000		53,105
Other Assets	69000		20,000
Total		$	1,783,801

189 - Division of Environmental Protection –

Special Reclamation Fund

(WV Code Chapter 22)

Fund 3321 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	1,678,252
Current Expenses	13000		16,185,006
Repairs and Alterations	06400		79,950
Equipment	07000		130,192
Other Assets	69000		32,000
Total		$	18,105,400

190 - Division of Environmental Protection –

Oil and Gas Reclamation Fund

(WV Code Chapter 22)

Fund 3322 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	549,957
Current Expenses	13000		1,956,094
Total		$	2,506,051

191 - Division of Environmental Protection –

Oil and Gas Operating Permit and Processing Fund

(WV Code Chapter 22)

Fund 3323 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	2,187,791
Unclassified	09900		15,700
Current Expenses	13000		932,300
Repairs and Alterations	06400		9,500
Equipment	07000		500
Other Assets	69000		500
Total		$	3,146,291

192 - Division of Environmental Protection –

Mining and Reclamation Operations Fund

(WV Code Chapter 22)

Fund 3324 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	3,635,868
Unclassified	09900		920
Current Expenses	13000		2,202,231
Repairs and Alterations	06400		60,260
Equipment	07000		83,000
Other Assets	69000		57,500
Total		$	6,039,779

193 - Division of Environmental Protection –

Underground Storage Tank

Administrative Fund

(WV Code Chapter 22)

Fund 3325 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	486,251
Unclassified	09900		7,520
Current Expenses	13000		318,420
Repairs and Alterations	06400		5,350
Equipment	07000		3,610
Other Assets	69000		3,500
Total		$	824,651

194 - Division of Environmental Protection –

Hazardous Waste Emergency Response Fund

(WV Code Chapter 22)

Fund 3331 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	614,039
Unclassified	09900		10,616
Current Expenses	13000		767,905
Repairs and Alterations	06400		7,014
Equipment	07000		9,000
Other Assets	69000		3,500
Total		$	1,412,074

195 - Division of Environmental Protection –

Solid Waste Reclamation and

Environmental Response Fund

(WV Code Chapter 22)

Fund 3332 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	849,562
Unclassified	09900		22,900
Current Expenses	13000		3,604,737

Repairs and Alterations	06400		25,000
Equipment	07000		31,500
Buildings	25800		500
Other Assets	69000		1,000
Total		$	4,535,199

196 - Division of Environmental Protection –

Solid Waste Enforcement Fund

(WV Code Chapter 22)

Fund 3333 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	3,362,824
Unclassified	09900		31,145
Current Expenses	13000		940,229
Repairs and Alterations	06400		30,930
Equipment	07000		23,356
Other Assets	69000		25,554
Total		$	4,414,038

197 - Division of Environmental Protection –

Air Pollution Control Fund

(WV Code Chapter 22)

Fund 3336 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	6,112,158
Unclassified	09900		70,572
Current Expenses	13000		1,469,467
Repairs and Alterations	06400		84,045
Equipment	07000		103,601
Other Assets	69000		52,951
Total		$	7,892,794

198 - Division of Environmental Protection –

Environmental Laboratory

Certification Fund

(WV Code Chapter 22)

Fund 3340 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	364,936
Unclassified	09900		1,120
Current Expenses	13000		201,146
Repairs and Alterations	06400		1,000
Other Assets	69000		163,000
Total		$	731,202

199 - Division of Environmental Protection –

Stream Restoration Fund

(WV Code Chapter 22)

Fund 3349 FY 2023 Org 0313

Current Expenses	13000	$	5,182,076

200 - Division of Environmental Protection –

Litter Control Fund

(WV Code Chapter 22)

Fund 3486 FY 2023 Org 0313

Current Expenses	13000	$	60,000

201 - Division of Environmental Protection –

Recycling Assistance Fund

(WV Code Chapter 22)

Fund 3487 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	680,241
Unclassified	09900		400
Current Expenses	13000		2,754,258
Repairs and Alterations	06400		800
Equipment	07000		500
Other Assets	69000		2,500
Total		$	3,438,699

202 - Division of Environmental Protection –

Mountaintop Removal Fund

(WV Code Chapter 22)

Fund 3490 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$	1,120,989
Unclassified	09900		1,180
Current Expenses	13000		589,834
Repairs and Alterations	06400		27,612
Equipment	07000		23,500
Other Assets	69000		11,520
Total		$	1,774,635

203 - Oil and Gas Conservation Commission –

Special Oil and Gas Conservation Fund

(WV Code Chapter 22C)

Fund 3371 FY 2023 Org 0315

Personal Services and Employee Benefits	00100	$	165,187
Current Expenses	13000		161,225
Repairs and Alterations	06400		1,000
Equipment	07000		9,481
Other Assets	69000		1,500
Total		$	338,393

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

204 - Division of Health –

Ryan Brown Addiction Prevention and Recovery Fund

(WV Code Chapter 19)

Fund 5111 FY 2023 Org 0506

Current Expenses	13000	$	10,667,392

205 - Division of Health –

The Vital Statistics Account

(WV Code Chapter 16)

Fund 5144 FY 2023 Org 0506

Personal Services and Employee Benefits	00100	$	1,097,919
Unclassified	09900		15,500
Current Expenses	13000		3,557,788
Total		$	4,671,207

206 - Division of Health –

Hospital Services Revenue Account

Special Fund

Capital Improvement, Renovation and Operations

(WV Code Chapter 16)

Fund 5156 FY 2023 Org 0506

Institutional Facilities Operations	33500	$	44,555,221
Medical Services Trust Fund – Transfer	51200		27,800,000
Total		$	72,355,221

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 2023, 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 Service Fund (fund 0525, organization 0506).

207 - Division of Health –

Laboratory Services Fund

(WV Code Chapter 16)

Fund 5163 FY 2023 Org 0506

Personal Services and Employee Benefits	00100	$	985,121
Unclassified	09900		18,114
Current Expenses	13000		2,209,105
Total		$	3,212,340

208 - Division of Health –

The Health Facility Licensing Account

(WV Code Chapter 16)

Fund 5172 FY 2023 Org 0506

Personal Services and Employee Benefits	00100	$	669,651
Unclassified	09900		7,113
Current Expenses	13000		98,247
Total		$	775,011

209 - Division of Health –

Hepatitis B Vaccine

(WV Code Chapter 16)

Fund 5183 FY 2023 Org 0506

Current Expenses	13000	$	9,740

210 - Division of Health –

Lead Abatement Account

*(*WV Code Chapter 16)

Fund 5204 FY 2023 Org 0506

Personal Services and Employee Benefits	00100	$	19,100
Unclassified	09900		373
Current Expenses	13000		17,875
Total		$	37,348

211 - Division of Health –

West Virginia Birth-to-Three Fund

(WV Code Chapter 16)

Fund 5214 FY 2023 Org 0506

Personal Services and Employee Benefits	00100	$	719,208
Unclassified	09900		223,999
Current Expenses	13000		30,134,400
Total		$	31,077,607

212 - Division of Health –

Tobacco Control Special Fund

(WV Code Chapter 16)

Fund 5218 FY 2023 Org 0506

Current Expenses	13000	$	7,579

213 - Division of Health –

Medical Cannabis Program Fund

(WV Code Chapter 16A)

Fund 5420 FY 2023 Org 0506

Personal Services and Employee Benefits	00100	$	509,658
Current Expenses	13000		2,046,040
Total		$	2,555,698

214 - West Virginia Health Care Authority –

Health Care Cost Review Fund

(WV Code Chapter 16)

Fund 5375 FY 2023 Org 0507

Personal Services and Employee Benefits	00100	$	1,348,406
Unclassified	09900		20,100
Current Expenses	13000		785,445
Total		$	2,153,951

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.

215 - West Virginia Health Care Authority –

Certificate of Need Program Fund

(WV Code Chapter 16)

Fund 5377 FY 2023 Org 0507

Personal Services and Employee Benefits	00100	$	844,926
Current Expenses	13000		474,967
Total		$	1,319,893

216 - Division of Human Services –

Health Care Provider Tax –

Medicaid State Share Fund

(WV Code Chapter 11)

Fund 5090 FY 2023 Org 0511

Medical Services	18900	$	393,594,315
Medical Services Administrative Costs	78900		251,273
Total		$	393,845,588

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 Medical Services Program Fund (fund 5084).

217 - Division of Human Services –

Child Support Enforcement Fund

(WV Code Chapter 48A)

Fund 5094 FY 2023 Org 0511

Personal Services and Employee Benefits	00100	$	24,809,509

Unclassified	09900		380,000
Current Expenses	13000		12,810,491
Total		$	38,000,000

218 - Division of Human Services –

Medical Services Trust Fund

(WV Code Chapter 9)

Fund 5185 FY 2023 Org 0511

Medical Services	18900	$	77,500,000
Medical Services Administrative Costs	78900		646,750
Total		$	78,146,750

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.

219 - Division of Human Services –

James "Tiger" Morton Catastrophic Illness Fund

(WV Code Chapter 16)

Fund 5454 FY 2023 Org 0511

Unclassified	09900	$	7,000
Current Expenses	13000		393,000
Total		$	400,000

220 - Division of Human Services –

Domestic Violence Legal Services Fund

(WV Code Chapter 48)

Fund 5455 FY 2023 Org 0511

Current Expenses	13000	$	900,000

221 - Division of Human Services –

West Virginia Works Separate State College Program Fund

(WV Code Chapter 9)

Fund 5467 FY 2023 Org 0511

Current Expenses	13000	$	500,000

222 - Division of Human Services –

West Virginia Works Separate State Two-Parent Program Fund

(WV Code Chapter 9)

Fund 5468 FY 2023 Org 0511

Current Expenses	13000	$	1,500,000

223 - Division of Human Services –

Marriage Education Fund

(WV Code Chapter 9)

Fund 5490 FY 2023 Org 0511

Personal Services and Employee Benefits	00100	$	10,000
Current Expenses	13000		25,000
Total		$	35,000

DEPARTMENT OF HOMELAND SECURITY

224 - Department of Homeland Security –

Office of the Secretary –

Law-Enforcement, Safety and Emergency Worker

Funeral Expense Payment Fund

(WV Code Chapter 15)

Fund 6003 FY 2023 Org 0601

Current Expenses	13000	$	32,000

225 - Division of Emergency Management –

Statewide Interoperable Radio Network Account

(WV Code Chapter 15)

Fund 6208 FY 2023 Org 0606

Current Expenses	13000	$	80,000

226 - Division of Emergency Management –

West Virginia Interoperable Radio Project

(WV Code Chapter 24)

Fund 6295 FY 2023 Org 0606

Unclassified	09900	$	20,000
Current Expenses	13000		3,980,000
Repairs and Alterations	06400		250,000
Equipment	07000		250,000
Total		$	4,500,000

227 - Division of Corrections and Rehabilitation –

Parolee Supervision Fees

(WV Code Chapter 15A)

Fund 6362 FY 2023 Org 0608

Personal Services and Employee Benefits	00100	$	1,164,081

Unclassified	09900		9,804
Current Expenses	13000		758,480
Equipment	07000		30,000
Other Assets	69000		40,129
Total		$	2,002,494

228 - Division of Corrections and Rehabilitation –

Regional Jail and Correctional Facility Authority

(WV Code Chapter 15A)

Fund 6675 FY 2023 Org 0608

Personal Services and Employee Benefits	00100	$	1,974,532
Debt Service	04000		9,000,000
Current Expenses	13000		245,472
Total		$	11,220,004

229 - West Virginia State Police –

Motor Vehicle Inspection Fund

(WV Code Chapter 17C)

Fund 6501 FY 2023 Org 0612

Personal Services and Employee Benefits	00100	$	1,965,212
Current Expenses	13000		1,488,211
Repairs and Alterations	06400		204,500
Equipment	07000		3,770,751
Buildings	25800		534,000
Other Assets	69000		5,000
BRIM Premium	91300		302,432
Total		$	8,270,106

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.

230 - West Virginia State Police –

Forensic Laboratory Fund

(WV Code Chapter 15)

Fund 6511 FY 2023 Org 0612

Personal Services and Employee Benefits	00100	$	1,615,128
Current Expenses	13000		90,000
Repairs and Alterations	06400		5,000
Equipment	07000		545,000
Total		$	2,255,128

231 - West Virginia State Police –

Drunk Driving Prevention Fund

(WV Code Chapter 15)

Fund 6513 FY 2023 Org 0612

Current Expenses	13000	$	1,327,000
Equipment	07000		3,491,895
BRIM Premium	91300		154,452
Total		$	4,973,347

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.

232 - West Virginia State Police –

Surplus Real Property Proceeds Fund

(WV Code Chapter 15)

Fund 6516 FY 2023 Org 0612

Buildings	25800	$	1,022,778
Land	73000		1,000

BRIM Premium	91300		77,222
Total		$	1,101,000

233 - West Virginia State Police –

Surplus Transfer Account

(WV Code Chapter 15)

Fund 6519 FY 2023 Org 0612

Current Expenses	13000	$	225,000
Repairs and Alterations	06400		20,000
Equipment	07000		250,000
Buildings	25800		40,000
Other Assets	69000		45,000
BRIM Premium	91300		5,000
Total		$	585,000

234 - West Virginia State Police –

Central Abuse Registry Fund

(WV Code Chapter 15)

Fund 6527 FY 2023 Org 0612

Personal Services and Employee Benefits	00100	$	268,731
Current Expenses	13000		376,443
Repairs and Alterations	06400		500
Equipment	07000		300,500
Other Assets	69000		300,500
BRIM Premium	91300		18,524
Total		$	1,265,198

235 - West Virginia State Police –

Bail Bond Enforcer Account

(WV Code Chapter 15)

Fund 6532 FY 2023 Org 0612

Current Expenses	13000	$	8,300

236 - West Virginia State Police –

State Police Academy Post Exchange

(WV Code Chapter 15)

Fund 6544 FY 2023 Org 0612

Current Expenses	13000	$	160,000
Repairs and Alterations	06400		40,000
Total		$	200,000

237 - Fire Commission –

Fire Marshal Fees

(WV Code Chapter 29)

Fund 6152 FY 2023 Org 0619

Personal Services and Employee Benefits	00100	$	3,616,684
Unclassified	09900		3,800
Current Expenses	13000		1,646,550
Repairs and Alterations	06400		58,500
Equipment	07000		140,800
BRIM Premium	91300		65,000
Total		$	5,531,334

238 - Division of Administrative Services –

WV Community Corrections Fund

(WV Code Chapter 62)

Fund 6386 FY 2023 Org 0623

Personal Services and Employee Benefits	00100	$	166,250

Unclassified	09900		750
Current Expenses	13000		1,846,250
Repairs and Alterations	06400		1,000
Total		$	2,014,250

239 - Division of Administrative Services –

Court Security Fund

(WV Code Chapter 51)

Fund 6804 FY 2023 Org 0623

Personal Services and Employee Benefits	00100	$	24,748
Current Expenses	13000		1,478,135
Total		$	1,502,883

240 - Division of Administrative Services –

Second Chance Driver's License Program Account

(WV Code Chapter 17B)

Fund 6810 FY 2023 Org 0623

Current Expenses	13000	$	125,000

DEPARTMENT OF REVENUE

241 - Division of Financial Institutions

(WV Code Chapter 31A)

Fund 3041 FY 2023 Org 0303

Personal Services and Employee Benefits	00100	$	2,653,645
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		119,000
Current Expenses	13000		650,475
Equipment	07000		8,500
Total		$	3,431,620

242 - Office of the Secretary –

State Debt Reduction Fund

(WV Code Chapter 29)

Fund 7007 FY 2023 Org 0701

Retirement Systems –			
Unfunded Liability	77500	$	20,000,000

The above appropriation for Retirement System – Unfunded Liability shall be transferred to the Consolidated Public Retirement Board – West Virginia Teachers Retirement System Employers School Aid Formula Funds Holding Account Fund (fund 2606).

243 - Home Rule Board Operations

(WV Code Chapter 8)

Fund 7010 FY 2023 Org 0701

Personal Services and			
Employee Benefits	00100	$	25,000
Unclassified	09900		680
Current Expenses	13000		42,000
Repairs and Alterations	06400		120
Equipment	07000		200
Total		$	68,000

244 - Tax Division –

Cemetery Company Account

(WV Code Chapter 35)

Fund 7071 FY 2023 Org 0702

Personal Services and			
Employee Benefits	00100	$	27,441
Current Expenses	13000		7,717
Total		$	35,158

245 - Tax Division –

Special Audit and Investigative Unit

(WV Code Chapter 11)

Fund 7073 FY 2023 Org 0702

Personal Services and Employee Benefits	00100	$	724,718
Unclassified	09900		8,500
Current Expenses	13000		273,297
Repairs and Alterations	06400		7,000
Equipment	07000		5,000
Total		$	1,018,515

246 - Tax Division –

Wine Tax Administration Fund

(WV Code Chapter 60)

Fund 7087 FY 2023 Org 0702

Personal Services and Employee Benefits	00100	$	275,024
Current Expenses	13000		5,406
Total		$	280,430

247 - Tax Division –

Reduced Cigarette Ignition Propensity

Standard and Fire Prevention Act Fund

(WV Code Chapter 47)

Fund 7092 FY 2023 Org 0702

Current Expenses	13000	$	35,000
Equipment	07000		15,000
Total		$	50,000

248 - Tax Division –

Local Sales Tax and Excise Tax

Administration Fund

(WV Code Chapter 11)

Fund 7099 FY 2023 Org 0702

Personal Services and Employee Benefits	00100	$	1,567,732
Unclassified	09900		10,000
Current Expenses	13000		784,563
Repairs and Alterations	06400		1,000
Equipment	07000		5,000
Total		$	2,368,295

249 - State Budget Office –

Public Employees Insurance Reserve Fund

(WV Code Chapter 11B)

Fund 7400 FY 2023 Org 0703

Public Employees Insurance Reserve Fund – Transfer	90300	$	6,800,000

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.

250 - Insurance Commissioner –

Examination Revolving Fund

(WV Code Chapter 33)

Fund 7150 FY 2023 Org 0704

Personal Services and Employee Benefits	00100	$	760,866

Current Expenses	13000		1,357,201
Repairs and Alterations	06400		3,000
Equipment	07000		81,374
Buildings	25800		8,289
Other Assets	69000		11,426
Total		$	2,222,156

251 - Insurance Commissioner –

Consumer Advocate

(WV Code Chapter 33)

Fund 7151 FY 2023 Org 0704

Personal Services and Employee Benefits	00100	$	584,078
Current Expenses	13000		202,152
Repairs and Alterations	06400		5,000
Equipment	07000		34,225
Buildings	25800		4,865
Other Assets	69000		19,460
Total		$	849,780

252 - Insurance Commissioner –

Insurance Commission Fund

(WV Code Chapter 33)

Fund 7152 FY 2023 Org 0704

Personal Services and Employee Benefits	00100	$	24,627,046
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		136,500
Current Expenses	13000		8,797,758
Repairs and Alterations	06400		68,614
Equipment	07000		1,728,240
Buildings	25800		25,000
Other Assets	69000		340,661

Total		$	35,723,819

253 - Insurance Commissioner –

Insurance Fraud Prevention Fund

(WV Code Chapter 33)

Fund 7153 FY 2023 Org 0704

Current Expenses	13000	$	15,000

254 - Insurance Commissioner –

Workers' Compensation Old Fund

(WV Code Chapter 23)

Fund 7162 FY 2023 Org 0704

Employee Benefits	01000	$	50,000
Current Expenses	13000		250,500,000
Total		$	250,550,000

255 - Insurance Commissioner –

Workers' Compensation Uninsured Employers' Fund

(WV Code Chapter 23)

Fund 7163 FY 2023 Org 0704

Current Expenses	13000	$	15,000,000

256 - Insurance Commissioner –

Self-Insured Employer Guaranty Risk Pool

(WV Code Chapter 23)

Fund 7164 FY 2023 Org 0704

Current Expenses	13000	$	9,000,000

257 - Insurance Commissioner –

Self-Insured Employer Security Risk Pool

(WV Code Chapter 23)

Fund 7165 FY 2023 Org 0704

Current Expenses	13000	$	14,000,000

258 - Municipal Bond Commission

(WV Code Chapter 13)

Fund 7253 FY 2023 Org 0706

Personal Services and Employee Benefits	00100	$	321,604
Current Expenses	13000		154,344
Equipment	07000		100
Total		$	476,048

259 - Racing Commission –

Relief Fund

(WV Code Chapter 19)

Fund 7300 FY 2023 Org 0707

Medical Expenses – Total	24500	$	154,000

The total amount of this appropriation shall be paid from the special revenue fund out of collections of license fees 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.

260 - Racing Commission –

Administration and Promotion Account

(WV Code Chapter 19)

Fund 7304 FY 2023 Org 0707

Personal Services and Employee Benefits	00100	$	272,430
Current Expenses	13000		85,433
Other Assets	69000		5,000
Total		$	362,863

261 - Racing Commission –

General Administration

(WV Code Chapter 19)

Fund 7305 FY 2023 Org 0707

Personal Services and Employee Benefits	00100	$	2,380,713
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		48,443
Current Expenses	13000		497,284
Repairs and Alterations	06400		5,000
Other Assets	69000		40,000
Total		$	2,971,440

262 - Racing Commission –

Administration, Promotion, Education, Capital Improvement

and Greyhound Adoption Programs

to include Spaying and Neutering Account

(WV Code Chapter 19)

Fund 7307 FY 2023 Org 0707

Personal Services and Employee Benefits	00100	$	924,832
Current Expenses	13000		160,099

Other Assets	69000		200,000
Total		$	1,284,931

263 - Alcohol Beverage Control Administration –

Wine License Special Fund

(WV Code Chapter 60)

Fund 7351 FY 2023 Org 0708

Personal Services and Employee Benefits	00100	$	147,213
Current Expenses	13000		54,186
Repairs and Alterations	06400		7,263
Equipment	07000		10,000
Buildings	25800		100,000
Transfer Liquor Profits and Taxes	42500		30,750
Other Assets	69000		100
Total		$	349,512

To the extent permitted by law, four classified exempt positions shall be provided from Personal Services and Employee Benefits appropriation for field auditors.

264 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

Fund 7352 FY 2023 Org 0708

Personal Services and Employee Benefits	00100	$	5,849,609
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		122,500
Current Expenses	13000		2,890,577
Repairs and Alterations	06400		91,000
Equipment	07000		108,000
Buildings	25800		375,100
Purchase of Supplies for Resale	41900		76,500,000
Transfer Liquor Profits and Taxes	42500		21,200,000

Other Assets	69000	125,100
Land	73000	100
Total		$ 107,261,986

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.

265 - State Athletic Commission Fund

(WV Code Chapter 29)

Fund 7009 FY 2023 Org 0933

Personal Services and Employee Benefits	00100	$ 12,000
Current Expenses	13000	28,000
Total		$ 40,000

DEPARTMENT OF TRANSPORTATION

266 - Division of Motor Vehicles –

Dealer Recovery Fund

(WV Code Chapter 17)

Fund 8220 FY 2023 Org 0802

Current Expenses	13000	$ 189,000

267 - Division of Motor Vehicles –

Motor Vehicle Fees Fund

(WV Code Chapter 17B)

Fund 8223 FY 2023 Org 0802

Personal Services and Employee Benefits	00100	$	3,929,736
Current Expenses	13000		4,372,596
Repairs and Alterations	06400		16,000
Equipment	07000		75,000
Other Assets	69000		10,000
BRIM Premium	91300		75,116
Total		$	8,478,448

268 - Division of Highways –

A. James Manchin Fund

(WV Code Chapter 22)

Fund 8319 FY 2023 Org 0803

Current Expenses	13000	$	2,500,000

269 - State Rail Authority -

West Virginia Commuter Rail Access Fund

(WV Code Chapter 29)

Fund 8402 FY 2023 Org 0804

Current Expenses	13000	$	600,000

DEPARTMENT OF VETERANS' ASSISTANCE

270 - Veterans' Facilities Support Fund

(WV Code Chapter 9A)

Fund 6703 FY 2023 Org 0613

Current Expenses	13000	$	1,654,234
Other Assets	69000		10,000
Total		$	1,664,234

271 - Department of Veterans' Assistance –

WV Veterans' Home –

Special Revenue Operating Fund

(WV Code Chapter 9A)

Fund 6754 FY 2023 Org 0618

Current Expenses	13000	$	289,400
Repairs and Alterations	06400		10,600
Total		$	300,000

BUREAU OF SENIOR SERVICES

272 - Bureau of Senior Services –

Community Based Service Fund

(WV Code Chapter 29)

Fund 5409 FY 2023 Org 0508

Personal Services and Employee Benefits	00100	$	140,202
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		25,795
Current Expenses	13000		10,348,710
Total		$	10,514,707

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

273 - 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 2023 Org 0442

Debt Service	04000	$ 27,402,035
General Capital Expenditures	30600	5,000,000
Facilities Planning and Administration	38600	456,239
Total		$ 32,858,274

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.

274 - Tuition Fee Revenue Bond Construction Fund

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2023 Org 0442

Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

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.

275 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2023 Org 0442

Any unexpended balance remaining in the appropriation for Capital Improvements – Total (fund 4908, appropriation 95800) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

The total amount of this appropriation shall be paid from the sale of the Series 2017 Community and Technical College Capital Improvement Refunding Revenue Bonds and anticipated interest earnings.

276 - West Virginia University –

West Virginia University Health Sciences Center

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2023 Org 0463

Personal Services and Employee Benefits	00100	$ 11,118,758
Current Expenses	13000	4,524,300
Repairs and Alterations	06400	425,000
Equipment	07000	512,000
Buildings	25800	150,000
Other Assets	69000	50,000
Total		$ 16,780,058

MISCELLANEOUS BOARDS AND COMMISSIONS

277 - Board of Barbers and Cosmetologists –

Barbers and Beauticians Special Fund

(WV Code Chapters 16 and 30)

Fund 5425 FY 2023 Org 0505

Personal Services and Employee Benefits	00100	$	568,198
Current Expenses	13000		234,969
Repairs and Alterations	06400		5,000
Total		$	808,167

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.

278 - Hospital Finance Authority –

Hospital Finance Authority Fund

(WV Code Chapter 16)

Fund 5475 FY 2023 Org 0509

Salary and Benefits of Cabinet Secretary and Agency Heads	00201	$	93,339
Unclassified	09900		1,501
Current Expenses	13000		55,268
Total		$	150,108

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.

279 - State Armory Board –

General Armory Fund

(WV Code Chapter 15)

Fund 6057 FY 2023 Org 0603

Personal Services and Employee Benefits	00100	$	1,687,298
Current Expenses	13000		650,000
Repairs and Alterations	06400		385,652
Equipment	07000		250,000
Buildings	25800		520,820
Other Assets	69000		350,000
Land	73000		200,000
Total		$	4,043,770

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).

280 - WV State Board of Examiners for Licensed Practical Nurses –

Licensed Practical Nurses

(WV Code Chapter 30)

Fund 8517 FY 2023 Org 0906

Personal Services and Employee Benefits	00100	$	507,607
Current Expenses	13000		107,700
Total		$	615,307

281 - WV Board of Examiners for Registered Professional Nurses –

Registered Professional Nurses

(WV Code Chapter 30)

Fund 8520 FY 2023 Org 0907

Personal Services and Employee Benefits	00100	$	1,342,970
Current Expenses	13000		312,655
Repairs and Alterations	06400		3,000
Equipment	07000		25,000
Other Assets	69000		4,500
Total		$	1,688,125

282 - Public Service Commission

(WV Code Chapter 24)

Fund 8623 FY 2023 Org 0926

Personal Services and Employee Benefits	00100	$	12,543,164
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		318,640
Unclassified	09900		147,643
Current Expenses	13000		2,507,202
Repairs and Alterations	06400		120,000
Equipment	07000		160,000
Buildings	25800		10
PSC Weight Enforcement	34500		4,742,560
Debt Payment/Capital Outlay	52000		350,000
Land	73000		10
BRIM Premium	91300		172,216
Total		$	21,061,445

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.

283 - Public Service Commission –

Gas Pipeline Division –

Public Service Commission Pipeline Safety Fund

(WV Code Chapter 24B)

Fund 8624 FY 2023 Org 0926

Personal Services and Employee Benefits	00100	$	288,700
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		11,949
Unclassified	09900		3,851
Current Expenses	13000		93,115
Repairs and Alterations	06400		4,000
Total		$	401,615

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.

284 - Public Service Commission –

Motor Carrier Division

(WV Code Chapter 24A)

Fund 8625 FY 2023 Org 0926

Personal Services and Employee Benefits	00100	$	2,367,199
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		67,711
Unclassified	09900		29,233
Current Expenses	13000		577,557
Repairs and Alterations	06400		23,000
Equipment	07000		50,000
Total		$	3,114,700

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.

285 - Public Service Commission –

Consumer Advocate Fund

(WV Code Chapter 24)

Fund 8627 FY 2023 Org 0926

Personal Services and Employee Benefits	00100	$	889,096
Current Expenses	13000		386,472
Equipment	07000		9,872
BRIM Premium	91300		4,660
Total		$	1,290,100

The total amount of these appropriations shall be supported by cash from a special revenue fund out of collections made by the Public Service Commission.

286 - Real Estate Commission –

Real Estate License Fund

(WV Code Chapter 30)

Fund 8635 FY 2023 Org 0927

Personal Services and Employee Benefits	00100	$	628,277
Current Expenses	13000		293,122
Repairs and Alterations	06400		2,500
Equipment	07000		5,000
Total		$	928,899

The total amount of these appropriations shall be paid out of collections of license fees as provided by law.

287 - WV Board of Examiners for Speech-Language

Pathology and Audiology –

Speech-Language Pathology and Audiology Operating Fund

(WV Code Chapter 30)

Fund 8646 FY 2023 Org 0930

Personal Services and Employee Benefits	00100	$	97,564
Current Expenses	13000		63,499
Total		$	161,063

288 - WV Board of Respiratory Care –

Board of Respiratory Care Fund

(WV Code Chapter 30)

Fund 8676 FY 2023 Org 0935

Personal Services and Employee Benefits	00100	$	88,904
Current Expenses	13000		62,709
Total		$	151,613

289 - WV Board of Licensed Dietitians –

Dietitians Licensure Board Fund

(WV Code Chapter 30)

Fund 8680 FY 2023 Org 0936

Personal Services and Employee Benefits	00100	$	20,219
Current Expenses	13000		20,250
Total		$	40,469

290 - Massage Therapy Licensure Board –

Massage Therapist Board Fund

(WV Code Chapter 30)

Fund 8671 FY 2023 Org 0938

Personal Services and Employee Benefits	00100	$	112,641
Current Expenses	13000		42,388
Total		$	155,029

291 - Board of Medicine –

Medical Licensing Board Fund

(WV Code Chapter 30)

Fund 9070 FY 2023 Org 0945

Personal Services and Employee Benefits	00100	$	1,577,216
Current Expenses	13000		1,108,789
Repairs and Alterations	06400		8,000
Total		$	2,694,005

292 - West Virginia Enterprise Resource Planning Board –

Enterprise Resource Planning System Fund

(WV Code Chapter 12)

Fund 9080 FY 2023 Org 0947

Personal Services and Employee Benefits	00100	$	5,494,051
Unclassified	09900		132,000
Current Expenses	13000		17,214,993
Repairs and Alterations	06400		300
Equipment	07000		502,000
Buildings	25800		2,000
Other Assets	69000		2,004,500
Total		$	25,349,844

293 - Board of Treasury Investments –

Board of Treasury Investments Fee Fund

(WV Code Chapter 12)

Fund 9152 FY 2023 Org 0950

Personal Services and Employee Benefits	00100	$	857,714
Unclassified	09900		14,850
Current Expenses	13000		580,889
BRIM Premium	91300		31,547
Fees of Custodians, Fund Advisors and Fund Managers	93800		3,500,000
Total		$	4,985,000

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.

294 - Contractor Licensing Board Fund

(WV Code Chapter 21)

Fund 3187 FY 2023 Org 0951

Personal Services and Employee Benefits	00100	$	2,559,000
Repairs and Alterations	06400		10,000
Unclassified	09900		21,000
Current Expenses	13000		500,000
BRIM Premium	91300		8,500
Total		$	3,098,500

Total TITLE II, Section 3 – Other Funds (Including claims against the state)	$ 2,002,782,414

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, Fund 3514, Fund 9067, and Fund 9068 and is authorized to transfer any such amounts to Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 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.

295 - Education, Arts, Sciences and Tourism –

Debt Service Fund

(WV Code Chapter 5)

Fund 2252 FY 2023 Org 0211

	Appro-priation		**Lottery Funds**
Debt Service – Total	31000	$	10,000,000

296 - Department of Tourism –

Office of the Secretary

(WV Code Chapter 5B)

Fund 3067 FY 2023 Org 0304

Tourism – Telemarketing Center	46300	$	82,080
Tourism – Advertising (R).....	61800		2,422,407

Tourism – Operations (R)	66200		4,339,884
Total		$	6,844,371

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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

297 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2023 Org 0310

Personal Services and Employee Benefits	00100	$	2,558,278
Current Expenses	13000		26,900
Pricketts Fort State Park	32400		106,560
Non-Game Wildlife (R)	52700		405,088
State Parks and Recreation Advertising (R)	61900		494,578
Total		$	3,591,404

Any unexpended balances remaining in the appropriations for Capital Outlay – Parks (fund 3267, appropriation 28800), Non-Game Wildlife (fund 3267, appropriation 52700), and State Parks and Recreation Advertising (fund 3267, appropriation 61900) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

298 - State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2023 Org 0402

FBI Checks	37200	$	119,574
Vocational Education Equipment Replacement	39300		800,000
Assessment Program (R)	39600		490,439

Literacy Project	89900	350,000
21st Century Technology Infrastructure Network Tools and Support (R)	93300	12,611,880
Total		$ 14,371,893

Any unexpended balances remaining in the appropriations for Assessment Program (fund 3951, appropriation 39600), and 21st Century Technology Infrastructure Network Tools and Support (fund 3951, appropriation 93300) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

299 - State Department of Education –

School Building Authority –

Debt Service Fund

(WV Code Chapter 18)

Fund 3963 FY 2023 Org 0404

Debt Service – Total	31000	$ 15,320,363
Directed Transfer	70000	2,679,637
Total		$ 18,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18.

The above appropriation for Directed Transfer (fund 3963, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, fund 3952, organization 0404 to be used for school construction and maintenance projects.

300 - Division of Culture and History –

Lottery Education Fund

(WV Code Chapter 29)

Fund 3534 FY 2023 Org 0432

Huntington Symphony	02700	$	59,058
Preservation West Virginia (R)	09200		491,921
Fairs and Festivals (R)	12200		1,346,814
Commission for National and Community Service (R)	19300		380,275
Archeological Curation/ Capital Improvements (R)	24600		38,546
Historic Preservation Grants (R)	31100		417,933
West Virginia Public Theater	31200		120,019
Greenbrier Valley Theater	42300		115,000
Theater Arts of West Virginia	46400		90,000
Marshall Artists Series	51800		36,005
Grants for Competitive Arts Program (R)	62400		811,500
West Virginia State Fair	65700		31,241
Save the Music	68000		40,000
Contemporary American Theater Festival	81100		57,281
Independence Hall	81200		27,277
Mountain State Forest Festival	86400		38,187
WV Symphony	90700		59,058
Wheeling Symphony	90800		59,058
Appalachian Children's Chorus	91600		54,554
Total		$	4,273,727

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, 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) $1,188, Ceredo Kenova Railroad Museum (Wayne) $1,188, 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) $5,941, Country Music Hall of Fame and Museum (Marion)

$4,159, First Stage Children's Theater Company $1,188, Flannigan Murrell House (Summers) $3,781, Fort Ashby Fort (Mineral) $891, Fort New Salem (Harrison) $2,198, Fort Randolph (Mason) $2,970, General Adam Stephen Memorial Foundation (Berkeley) $11,006, Grafton Mother's Day Shrine Committee (Taylor) $9,029, 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 $4,753, Maddie Carroll House (Cabell) $4,455, Marshall County Historical Society $5,049, McCoy Theater (Hardy) $11,881, Memorial Day Patriotic Exercise (Taylor) $20,000, Morgantown Theater Company (Monongalia) $11,881, Mountaineer Boys' State (Lewis) $5,941, Nicholas Old Main Foundation (Nicholas) $1,188, Norman Dillon Farm Museum (Berkeley) $5,941, Old Opera House Theater Company (Jefferson) $8,911, Parkersburg Arts Center (Wood) $11,881, Pocahontas Historic Opera House $3,564, Raleigh County All Wars Museum $5,941, Rhododendron Girl's State (Ohio) $5,941, Roane County 4-H and FFA Youth Livestock Program $2,970, Society for the Preservation of McGrew House (Preston) $2,079, Southern West Virginia Veterans' Museum (Raleigh) $3,393, Summers County Historic Landmark Commission $2,970, Those Who Served War Museum (Mercer) $2,376, Three Rivers Avian Center (Summers) $5,311, Veterans Committee for Civic Improvement of Huntington (Wayne) $2,970, West Virginia Museum of Glass (Lewis) $2,970, West Virginia Music Hall of Fame (Kanawha) $20,792, YMCA Camp Horseshoe (Tucker) $59,406, Youth Museum of Southern West Virginia (Raleigh) $7,129, 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 Don Redman Heritage Concert & Awards (Jefferson) $938, Annual Ruddle Park Jamboree (Pendleton) $4,690, Antique Market Fair (Lewis) $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, Back Home Festival (Wetzel) $5,000, Barbour County Fair (Barbour) $14,851, Barboursville Octoberfest (Cabell) $2,970, Battelle District Fair (Monongalia) $3,340, 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 (Berkeley) $10,990, Black Bear 4K Mountain Bike Race (Kanawha) $684, Black Heritage Festival (Harrison) $3,564, Black Walnut Festival (Roane) $5,940, Blacksville VFD Memorial Day Celebration (Monongalia) $1,000, Blast from the Past (Upshur) $1,440, Blue-Gray Reunion (Barbour) $2,079, Blue Ridge Arts and Crafts Festival (Jefferson) $5,000, Boone County Fair (Boone) $5,940, Boone County Labor Day Celebration (Boone) $2,376, Bradshaw Fall Festival (McDowell) $1,188, Bramwell Labor Day (Mercer) $5,000, Brandonville Heritage Day (Preston) $1,048, Braxton County Fair (Braxton) $6,832, Braxton County Monster Fest / West Virginia Autumn Festival (Braxton) $1,485, Brooke County Fair (Brooke) $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 Auxiliary (Mineral) $13,821, Burlington Pumpkin Harvest Festival (Raleigh) $2,970, Burlington Volunteer Fire and Rescue Carnival (Mineral) $4,000, Burnsville Freedom Festival (Braxton) $1,407, Cabell County Fair (Cabell) $5,940, Calhoun County Wood Festival (Calhoun) $1,188, Campbell's Creek Community Fair (Kanawha) $1,485, Cape Coalwood Festival Association (McDowell) $1,485, Cacapon River Fest (Hampshire) $2,500, Capon Bridge Founders Day Festival (Hampshire) $1,188, Capon Springs Ruritan 4th of

July (Hampshire) $684, Cass Homecoming (Pocahontas) $1,188, Cedarville Town Festival (Gilmer) $684, Celebration of America (Monongalia) $3,564, Chapmanville Apple Butter Festival (Logan) $684, Chapmanville Fire Department 4th of July (Logan) $1,782, Charles Town Christmas Festival (Jefferson) $2,970, Charles Town Heritage Festival (Jefferson) $2,970, Cherry River Festival (Nicholas) $3,861, Chester Fireworks (Hancock) $891, Chester 4th of July Festivities (Hancock) $2,970, Chilifest West Virginia State Chili Championship (Cabell) $1,563, Christmas In Our Town (Marion) $3,127, Christmas in Shepherdstown (Jefferson) $2,376, Christmas in the Park (Brooke) $2,970, Christmas in the Park (Logan) $14,851, Christmas on Main Street (Hancock) $11,881, City of Dunbar Critter Dinner (Kanawha) $5,940, City of New Martinsville Festival of Memories (Wetzel) $6,534, Clay County Golden Delicious Apple Festival (Clay) $4,158, Clay District Fair (Monongalia) $3,341, Clendenin Homecoming Festival (Kanawha) $1,000, Coal Field Jamboree (Logan) $20,792, Coalton Days Fair (Randolph) $4,158, Covered Bridge Festival (Marion) $3,000, Craigsville Fall Festival (Nicholas) $2,079, Cruise into Princeton (Mercer) $2,160, Culturefest World Music & Arts Festival (Mercer) $4,690, Delbarton Homecoming (Mingo) $2,079, Doddridge County Fair (Doddridge) $4,158, Dorcas Ice Cream Social (Grant) $3,564, Durbin Days (Pocahontas) $2,970, Elbert/Filbert Reunion Festival (McDowell) $891, Fairview 4th of July Celebration (Marion) $684, Farm Safety Day (Preston) $1,188, Farmer's Day Festival (Monroe) $2,330, Fenwick Mountain Old Time Community Festival (Nicholas) $2,880, FestivALL Charleston (Kanawha) $11,881, Flemington Days Fair and Festival (Taylor) $2,379, Fly in Festival (Cabell) $5,000, Follansbee Community Days (Brooke) $4,900, Fort 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) $10,709, Freshwater Folk Festival (Greenbrier) $2,970, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) $2,970, Frontier Days (Harrison) $1,782, 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 Spring Fling (Mingo) $3,595, Gilmer County Farm Show (Gilmer) $2,376, Grant County Arts Council (Grant) $1,188, Great Greenbrier River Race (Pocahontas) $5,940, Greater Quinwood Days (Greenbrier) $781, Guyandotte Civil War Days (Cabell) $5,941, Hamlin 4th of July Celebration (Lincoln) $2,970, Hampshire Civil War Celebration Days (Hampshire) $684, Hampshire County 4th of July Celebration (Hampshire) $11,881, Hampshire County Fair (Hampshire) $5,002, Hampshire Highlands Art & Music Festival (Hampshire) $4,252, Hancock County Oldtime Fair (Hancock) $2,970, Hardy County Commission - 4th of July (Hardy) $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, Huntersville Traditions Day (Pocahontas) $4,000, 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 (Jackson) $2,970, Jamboree (Pocahontas) $2,970, Jane Lew Arts and Crafts Fair (Lewis) $684, Jefferson County Fair Association (Jefferson) $14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire) $684, John Henry Days Festival (Monroe) $4,698, Johnnie Johnson Blues and Jazz Festival (Marion) $2,970, Johnstown Community Fair (Harrison) $1,485, Junior Heifer Preview Show (Lewis) $1,188, Kanawha Coal Riverfest-St. Albans 4th of July Festival (Kanawha) $2,970, Keeper of the Mountains-Kayford (Kanawha) $1,485, Kenova Autumn Festival (Wayne) $4,377, Kermit Fall Festival (Mingo) $1,782, Keystone Reunion Gala (McDowell) $1,563, King Coal Festival (Mingo) $2,970, Kingwood Downtown Street Fair and Heritage Days (Preston) $1,188, Knights of Columbus Irish Road Bowling (Marshall County) $3,000, L.Z. Rainelle West Virginia Veterans Reunion (Greenbrier) $2,970, Lady of Agriculture (Preston) $684, Larry Joe

Harless Center Octoberfest Hatfield McCoy Trail (Mingo) $5,940, Larry Joe Harless Community Center Spring Middle School Event (Mingo) $2,970, Last Blast of Summer (McDowell) $2,970, Lewisburg Shanghai (Greenbrier) $1,188, Lincoln County Fall Festival (Lincoln) $4,752, Lincoln County Winterfest (Lincoln) $2,970, Lindside Veterans' Day Parade (Monroe) $720, Little Levels Heritage Festival (Pocahontas) $1,188, Lost Creek Community Festival (Harrison) $4,158, Main Street Arts Festival (Upshur) $3,127, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley) $2,813, Malden Salt Fest (Kanawha) $2,000, Mannington District Fair (Marion) $3,564, Maple Syrup Festival (Randolph) $684, Marion County FFA Farm Fest (Marion) $1,485, Marmet Labor Day Celebration (Kanawha) $3,078, Marshall County Antique Power Show (Marshall) $1,485, Marshall County Fair (Marshall) $5,000, Mason County Fair (Mason) $2,970, Matewan Massacre Reenactment (Mingo) $5,004, Matewan-Magnolia Fair (Mingo) $15,932, McARTS-McDowell County (McDowell) $11,881, McGrew House History Day (Preston) $1,188, McNeill's Rangers (Mineral) $4,752, Meadow Bridge Hometown Festival (Fayette) $743, Meadow River Days Festival (Greenbrier) $1,782, Mercer County Fair (Mercer) $1,188, Mercer County Heritage Festival (Mercer) $3,474, Milton Christmas in the Park (Cabell) $1,485, Milton Old Timey Days (Cabell) $1,485, Mineral County Fair (Mineral) $1,040, Mineral County Veterans Day Parade (Mineral) $891, Molasses Festival (Calhoun) $1,188, Monongahfest (Marion) $3,752, Monongalia County Fair (Monongalia) $7,250, Moon Over Mountwood Fishing Festival (Wood) $1,782, Morgan County Fair-History Wagon (Morgan) $891, Moundsville Bass Festival (Marshall) $2,376, Moundsville July 4th Celebration (Marshall) $2,970, Mount Liberty Fall Festival (Barbour) $1,485, Mountain Festival (Mercer) $2,747, Mountain Heritage Arts and Crafts Festival (Jefferson) $2,970, Mountain Music Festival (McDowell) $1,485, Mountain State Apple Harvest Festival (Berkeley) $4,456, Mountain State Arts & Crafts Fair Cedar Lakes (Jackson) $26,732, Mullens Dogwood Festival (Wyoming) $4,158, Multi-Cultural Festival of West Virginia (Kanawha) $11,881, Music and Barbecue - Banks District VFD (Upshur) $1,278, New Cumberland Christmas Parade (Hancock) $1,782, New Cumberland 4th of July (Hancock)

$2,970, New Martinsville Regatta (Wetzel) $9,000, New River Bridge Day Festival (Fayette) $23,762, Nicholas County Fair (Nicholas) $2,970, Nicholas County Potato Festival (Nicholas) $2,079, Oak Leaf Festival (Fayette) $6,253, Oceana Heritage Festival (Wyoming) $4,000, Oglebay City Park - Festival of Lights (Ohio) $47,524, Oglebay Festival (Ohio) $5,940, Ohio County Country Fair (Ohio) $5,346, Ohio River Fest (Jackson) $4,320, Ohio Valley Black Heritage Festival (Ohio) $3,267, Old Brick Playhouse (Randolph) $7,000, Old Central City Fair (Cabell) $2,970, Old Tyme Christmas (Jefferson) $1,425, Osage Street Fair (Monongalia) $1,000, Paden City Labor Day Festival (Wetzel) $3,861, Parkersburg Homecoming (Wood) $8,754, Patty Fest (Monongalia) $1,188, Paw Paw District Fair (Marion) $2,079, Pax Reunion Committee (Fayette) $2,970, Pendleton County 4-H Weekend (Pendleton) $1,188, Pendleton County Committee for Arts (Pendleton) $8,910, Pennsboro Country Road Festival (Ritchie) $1,188, Petersburg 4th of July Celebration (Grant) $11,881, Petersburg HS Celebration (Grant) $5,940, Piedmont-Annual Back Street Festival (Mineral) $2,376, Pinch Reunion (Kanawha) $1,500, Pine Bluff Fall Festival (Harrison) $2,376, Pine Grove 4th of July Festival (Wetzel) $4,158, Pineville Festival (Wyoming) $3,564, Pleasants County Agriculture Youth Fair (Pleasants) $2,970, Poca Heritage Days (Putnam) $1,782, Pocahontas County Pioneer Days (Pocahontas) $4,159, Point Pleasant Stern Wheel Regatta (Mason) $2,970, Pratt Fall Festival (Kanawha) $1,485, Princeton Autumnfest (Mercer) $1,563, Princeton Street Fair (Mercer) $2,970, Putnam County Fair (Putnam) $2,970, Quartets on Parade (Hardy) $2,376, Rainelle Fall Festival (Greenbrier) $3,127, Rand Community Center Festival (Kanawha) $1,485, Randolph County Community Arts Council (Randolph) $1,782, Randolph County Fair (Randolph) $4,158, Randolph County Ramps and Rails (Randolph) $2,188, Ranson Christmas Festival (Jefferson) $2,970, Ranson Festival (Jefferson) $2,970, Renick Liberty Festival (Greenbrier) $684, Ripley 4th of July (Jackson) $8,910, Ritchie County Fair and Exposition (Ritchie) $2,970, Ritchie County Pioneer Days (Ritchie) $684, River City Festival (Preston) $684, Roane County Agriculture Field Day (Roane) $1,782, Rock the Park (Kanawha) $3,240, Rocket Boys Festival (Raleigh) $1,710, Romney Heritage Days

(Hampshire) $1,876, Ronceverte River Festival (Greenbrier) $2,970, Rowlesburg Labor Day Festival (Preston) $684, Rupert Country Fling (Greenbrier) $1,876, 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, Smoke on the Water (Wetzel) $1,782, South Charleston Summerfest (Kanawha) $5,940, Southern Wayne County Fall Festival (Wayne) $684, Spirit of Grafton Celebration (Taylor) $6,240, Spring Mountain Festival (Grant) $2,500, St. Albans City of Lights - December (Kanawha) $2,970, Sternwheel Festival (Wood) $1,782, Stoco Reunion (Raleigh) $1,485, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis) $6,534, Stonewall Jackson's Roundhouse Raid (Berkeley) $7,200, Strawberry Festival (Upshur) $17,821, Sylvester Big Coal River Festival (Boone) $1,944, Tacy Fair (Barbour) $684, Taste of Parkersburg (Wood) $2,970, Taylor County Fair (Taylor) $3,567, The Gathering at Sweet Creek (Wood) $1,782, Three Rivers Coal Festival (Marion) $4,604, Thunder on the Tygart - Mothers' Day Celebration (Taylor) $7,300, Town of Delbarton 4th of July Celebration (Mingo) $1,782, Town of Fayetteville Heritage Festival (Fayette) $4,456, Town of Rivesville 4th of July Festival (Marion) $3,127, Town of Winfield - Putnam County Homecoming (Putnam) $3,240, St. Albans Train Fest (Kanawha) $6,120, Treasure Mountain Festival (Pendleton) $16,851, Tri-County Fair (Grant) $22,548, Tucker County Arts Festival and Celebration (Tucker) $10,692, Tucker County Fair (Tucker) $2,821, Tucker County Health Fair (Tucker) $1,188, Turkey Festival (Hardy) $1,782, Tyler County Fair (Tyler) $3,088, Tyler County Fireworks Celebration (Tyler) $2,000, Union Community Irish Festival (Barbour) $648, Upper Kanawha Valley Oktoberfest (Kanawha) $1,485, Upper Ohio Valley Italian Festival (Ohio) $7,128, 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 (Wayne) $2,970, Wayne County Fall Festival (Wayne) $2,970, Webster County Fair (Webster) $3,600, Webster County Wood Chopping Festival (Webster) $8,910, Webster Wild Water

Weekend (Webster) $1,188, Welcome Home Family Day (Wayne) $1,900, Wellsburg 4th of July Celebration (Brooke) $4,456, Wellsburg Apple Festival of Brooke County (Brooke) $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 Freedom Festial (Logan) $4,456, West Virginia Fireman's Rodeo (Fayette) $1,485, West Virginia Oil and Gas Festival (Tyler) $6,534, West Virginia Peach Festival (Hampshire) $3,240, West Virginia Polled Hereford Association (Braxton) $891, West Virginia Pumpkin Festival (Cabell) $5,940, West Virginia Rivers and Rails Festival (Pleasants) $1,099, 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 (Wetzel) $3,267, Wetzel County Town and Country Days (Wetzel) $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, Wine Festival and Mountain Music Event (Harrison) $2,970, Winfield Watersports Weekend (Putnam) $3,240, Wirt County Fair (Wirt) $1,485, Wirt County Pioneer Days (Wirt) $1,188, Wyoming County Civil War Days (Wyoming) $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), Commission for National and Community Service (fund 3534, appropriation 19300), Archeological Curation/Capital Improvements (fund 3534, appropriation 24600), Historic Preservation Grants (fund 3534, appropriation 31100), and Grants for Competitive Arts Program (fund 3534, appropriation 62400) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

Any Fairs & Festivals awards shall be funded in addition to, and not in lieu of, individual grant allocations derived from the Arts Council and Cultural Grant Program allocations.

301 - Library Commission –

Lottery Education Fund

(WV Code Chapter 10)

Fund 3559 FY 2023 Org 0433

Books and Films	17900	$	360,784
Services to Libraries	18000		550,000
Grants to Public Libraries	18200		9,439,571
Digital Resources	30900		219,992
Infomine Network	88400		943,353
Total		$	11,513,700

302 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 3587 FY 2023 Org 0439

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 3587, appropriation 75500) at the close of fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

303 - Higher Education Policy Commission –

Lottery Education –

Higher Education Policy Commission –

Control Account

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2023 Org 0441

RHI Program and Site Support (R)	03600	$	1,915,854

RHI Program and Site Support – RHEP Program Administration	03700		146,653
RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (R)	03800		89,586
Minority Doctoral Fellowship (R)	16600		129,604
Health Sciences Scholarship (R)	17600		225,908
Vice Chancellor for Health Sciences – Rural Health Residency Program (R)	60100		62,725
WV Engineering, Science, and Technology Scholarship Program	86800		452,831
Total		$	3,023,161

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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

The above appropriation for WV Engineering, Science, and Technology Scholarship Program (fund 4925, 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.

304 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2023 Org 0442

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 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

305 - Higher Education Policy Commission –

Lottery Education –

West Virginia University – School of Medicine

(WV Code Chapter 18B)

Fund 4185 FY 2023 Org 0463

WVU Health Sciences – RHI Program and Site Support (R)	03500	$	1,208,106
MA Public Health Program and Health Science Technology (R)	62300		52,445
Health Sciences Career Opportunities Program (R)	86900		336,987
HSTA Program (R)	87000		1,802,118
Center for Excellence in Disabilities (R)	96700		318,711
Total		$	3,718,367

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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

306 - Higher Education Policy Commission –

Lottery Education –

Marshall University – School of Medicine

(WV Code Chapter 18B)

Fund 4896 FY 2023 Org 0471

Marshall Medical School – RHI Program and Site Support (R)	03300	$	434,910
Vice Chancellor for Health Sciences – Rural Health Residency Program (R)	60100		174,109
Total		$	609,019

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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

307 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2023 Org 0508

Personal Services and Employee Benefits	00100	$	142,503
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		70,720
Current Expenses	13000		332,284
Repairs and Alterations	06400		1,000
Local Programs Service Delivery Costs	20000		2,435,250
Silver Haired Legislature	20200		18,500

Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens	53900	14,203,501
Roger Tompkins Alzheimer's Respite Care	64300	2,304,286
WV Alzheimer's Hotline	72400	45,000
Regional Aged and Disabled Resource Center	76700	425,000
Senior Services Medicaid Transfer	87100	16,400,070
Legislative Initiatives the Elderly	90400	9,671,239
Long Term Care Ombudsman	90500	297,226
BRIM Premium	91300	7,718
In-Home Services and Nutrition for Senior Citizens	91700	6,845,941
Total		$ 53,200,238

Any unexpended balance remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, appropriation 46200) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

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.

Total TITLE II, Section 4 – Lottery Revenue	$ 134,145,880

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.

308 - Governor's Office

(WV Code Chapter 5)

Fund 1046 FY 2023 Org 0100

	Appro-priation	**Excess Lottery Funds**

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 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

309 - Office of Technology

(WV Code Chapter 5A)

Fund 2532 FY 2023 Org 0231

Any unexpended balances remaining in the appropriations for Cyber Security (fund 2532, appropriation 99001), Enterprise Data Center (fund 2532, appropriation 99002), and Enterprise Telephony Modernization (fund 2532, appropriation 99003) at the close of the fiscal year 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

310 - Department of Economic Development –

Office of the Secretary –

West Virginia Development Office

(WV Code Chapter 5B)

Fund 3170 FY 2023 Org 0307

Any unexpended balance remaining in the appropriation for Recreational Grants or Economic Development Loans (fund 3170, appropriation 25300) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

311 - Division of Natural Resources –

State Park Improvement Fund

Fund 3277 FY 2023 Org 0310

Current Expenses (R)	13000	$	23,300
Repairs and Alterations (R)	06400		161,200
Equipment (R)	07000		200,000
Buildings (R)	25800		100,000
Other Assets (R)	69000		1,020,500
Total		$	1,505,000

Any unexpended balances remaining in the appropriations for Repairs and Alterations (fund 3277, appropriation 06400), Equipment (fund 3277, appropriation 07000), Unclassified – Total (fund 3277, appropriation 09600), 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 2022 are hereby reappropriated for expenditure during the fiscal year 2023.

312 - West Virginia Infrastructure Council –

West Virginia Infrastructure Transfer Fund

Fund 3390 FY 2023 Org 0316

Directed Transfer	70000	$	46,000,000

The above appropriation shall be allocated pursuant to W.Va. Code §29-22-18d and §31-15-9.

313 - Department of Education –

School Building Authority

Fund 3514 FY 2023 Org 0404

Debt Service - Total	31000	$	18,999,900
Directed Transfer	70000		100
Total		$	19,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18a.

The above appropriation for Directed Transfer (fund 3514, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund (fund 3952, organization 0404) to be used for school construction and maintenance projects.

314 - Higher Education Policy Commission –

Education Improvement Fund

Fund 4295 FY 2023 Org 0441

PROMISE Scholarship – Transfer	80000	$	29,000,000

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.

315 - Higher Education Policy Commission –

Higher Education Improvement Fund

Fund 4297 FY 2023 Org 0441

Directed Transfer ..... 70000 $ 15,000,000

The above appropriation for Directed Transfer shall be transferred to Higher Education Policy Commission – System – Tuition Fee Capital Improvement Fund (fund 4903, org 0442) as authorized by Senate Concurrent Resolution No. 41.

316 - Higher Education Policy Commission –

Administration –

Control Account

Fund 4932 FY 2023 Org 0441

Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

317 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2023 Org 0511

Medical Services ..... 18900 $ 26,697,960

318 - Division of Corrections and Rehabilitation –

Correctional Units

(WV Code Chapter 15A)

Fund 6283 FY 2023 Org 0608

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 6283, appropriation 75500) at the close of the fiscal year 2022 is hereby reappropriated for expenditure during the fiscal year 2023.

319 - Lottery Commission –

General Purpose Account

Fund 7206 FY 2023 Org 0705

General Revenue Fund – Transfer	70011	$	65,000,000

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.

320 - Lottery Commission –

Refundable Credit

Fund 7207 FY 2023 Org 0705

Directed Transfer	70000	$	10,000,000

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.

321 - Lottery Commission –

Distributions to Statutory Funds and Purposes

Fund 7213 FY 2023 Org 0705

Parking Garage Fund – Transfer	70001	$	500,000
2004 Capitol Complex Parking Garage Fund – Transfer	70002		216,478
Capitol Dome and Improvements			

Fund – Transfer	70003		1,796,256
Capitol Renovation and Improvement Fund – Transfer	70004		2,381,252
Development Office Promotion Fund – Transfer	70005		1,298,864
Research Challenge Fund – Transfer	70006		1,731,820
Tourism Promotion Fund – Transfer	70007		4,808,142
Cultural Facilities and Capitol Resources Matching Grant Program Fund – Transfer	70008		1,250,535
State Debt Reduction Fund – Transfer	70010		20,000,000
General Revenue Fund – Transfer	70011		1,167,799
West Virginia Racing Commission Racetrack Video Lottery Account	70012		3,463,637
Historic Resort Hotel Fund	70013		24,010
Licensed Racetrack Purse Fund	70014		22,383,247
Total		$	61,022,040

322 - Racing Commission

Fund 7308 FY 2023 Org 0707

Special Breeders Compensation (WVC §29-22-18a, subsection (I))	21800	$	2,000,000

323 - Economic Development Authority –

Economic Development Project Fund

Fund 9065 FY 2023 Org 0944

Debt Service – Total	31000	$	19,000,000

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).

324 - Economic Development Authority –

Cacapon and Beech Fork State Parks –

Lottery Revenue Debt Service

Fund 9067 FY 2023 Org 0944

Debt Service	04000	$	2,032,000

325 - Economic Development Authority –

State Parks Lottery Revenue Debt Service Fund

Fund 9068 FY 2023 Org 0944

Debt Service	04000	$	4,395,000
Total TITLE II, Section 5 – Excess Lottery Funds		$	300,652,000

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 2023.

LEGISLATIVE

326 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2023 Org 2300

	Appro-priation	**Federal Funds**

Economic Loss Claim Payment Fund	33400	$	1,100,000

JUDICIAL

327 - Supreme Court

Fund 8867 FY 2023 Org 2400

Personal Services and Employee Benefits	00100	$	1,813,000
Current Expenses	13000		1,557,000
Repairs and Alterations	06400		100,000
Equipment	07000		250,000
Other Assets	69000		280,000
Total		$	4,000,000

EXECUTIVE

328 - Governor's Office –

Coronavirus State Fiscal Recovery Fund

(WV Code Chapter 4)

Fund 8823 FY 2023 Org 0100

Personal Services and Employee Benefits	00100	$	941,932,089
Unclassified	09900		13,554,899
Current Expenses	13000		400,000,000
Repairs and Alterations	06400		1,000
Equipment	07000		1,000
Other Assets	69000		1,000
Total		$	1,355,489,988

329 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2023 Org 1400

Personal Services and Employee Benefits	00100	$	2,708,867
Unclassified	09900		50,534
Current Expenses	13000		6,828,661
Repairs and Alterations	06400		650,000
Equipment	07000		910,500
Buildings	25800		1,000,000
Other Assets	69000		550,000
Land	73000		500,000
Total		$	13,198,562

330 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 8737 FY 2023 Org 1400

Personal Services and Employee Benefits	00100	$	685,045
Unclassified	09900		8,755
Current Expenses	13000		136,012
Repairs and Alterations	06400		5,500
Equipment	07000		114,478
Total		$	949,790

331 - Department of Agriculture –

State Conservation Committee

(WV Code Chapter 19)

Fund 8783 FY 2023 Org 1400

Personal Services and Employee Benefits	00100	$	97,250
Current Expenses	13000		15,599,974
Total		$	15,697,224

332 - Department of Agriculture –

Land Protection Authority

Fund 8896 FY 2023 Org 1400

Personal Services and Employee Benefits	00100	$	46,526
Unclassified	09900		5,004
Current Expenses	13000		448,920
Total		$	500,450

333 - Attorney General –

Medicaid Fraud Unit

Fund 8882 FY 2023 Org 1500

Personal Services and Employee Benefits	00100	$	1,434,886
Unclassified	09900		15,336
Current Expenses	13000		599,513
Repairs and Alterations	06400		4,313
Equipment	07000		7,500
Other Assets	69000		11,336
Total		$	2,072,884

334 - Secretary of State –

State Election Fund

(WV Code Chapter 3)

Fund 8854 FY 2023 Org 1600

Personal Services and Employee Benefits	00100	$	210,240
Unclassified	09900		7,484
Current Expenses	13000		415,727
Repairs and Alterations	06400		15,000
Other Assets	69000		100,000
Total		$	748,451

DEPARTMENT OF COMMERCE

335 - Division of Forestry

(WV Code Chapter 19)

Fund 8703 FY 2023 Org 0305

Personal Services and Employee Benefits	00100	$	610,888
Unclassified	09900		51,050
Current Expenses	13000		5,232,560
Repairs and Alterations	06400		155,795
Equipment	07000		100,000
Other Assets	69000		1,808,300
Total		$	7,958,593

336 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 8704 FY 2023 Org 0306

Personal Services and Employee Benefits	00100	$	54,432
Unclassified	09900		2,803
Current Expenses	13000		195,639
Repairs and Alterations	06400		5,000
Equipment	07000		7,500
Other Assets	69000		15,000
Total		$	280,374

337 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2023 Org 0308

Personal Services and Employee Benefits	00100	$	427,254
Unclassified	09900		5,572
Current Expenses	13000		167,098
Repairs and Alterations	06400		500
Total		$	600,424

338 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2023 Org 0310

Personal Services and Employee Benefits	00100	$	10,318,396
Unclassified	09900		107,693
Current Expenses	13000		7,887,660
Repairs and Alterations	06400		566,250
Equipment	07000		2,126,141
Administration	15500		50,325
Buildings	25800		951,000
Other Assets	69000		4,768,670
Land	73000		2,893,920
Total		$	29,670,055

339 - Division of Miners' Health,

Safety and Training

(WV Code Chapter 22)

Fund 8709 FY 2023 Org 0314

Personal Services and Employee Benefits	00100	$	670,029
Current Expenses	13000		150,000
Total		$	820,029

340 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 8835 FY 2023 Org 0323

Unclassified	09900	$	5,127
Current Expenses	13000		507,530
Reed Act 2002 – Unemployment Compensation	62200		4,446,737
Reed Act 2002 – Employment Services	63000		3,246,737
Total		$	8,206,131

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.

341 - State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 8734 FY 2023 Org 0932

Personal Services and Employee Benefits	00100	$	12,042,929
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		138,000
Current Expenses	13000		34,440,940
Repairs and Alterations	06400		350,400
Equipment	07000		1,275,870
Total		$	48,248,139

342 - State Board of Rehabilitation –

Division of Rehabilitation Services –

Disability Determination Services

(WV Code Chapter 18)

Fund 8890 FY 2023 Org 0932

Personal Services and Employee Benefits	00100	$	12,945,086
Current Expenses	13000		13,383,206
Repairs and Alterations	06400		1,100
Equipment	07000		83,350
Total		$	26,412,742

DEPARTMENT OF ECONOMIC DEVELOPMENT

343 - Department of Economic Development –

Office of the Secretary

(WV Code Chapter 5B)

Fund 8705 FY 2023 Org 0307

Personal Services and Employee Benefits	00100	$	1,521,231
Unclassified	09900		50,000
Current Expenses	13000		21,304,019
Total		$	22,875,250

344 - Department of Economic Development –

Office of Energy

(WV Code Chapter 5B)

Fund 8892 FY 2023 Org 0307

Personal Services and Employee Benefits	00100	$	985,462
Unclassified	09900		7,350
Current Expenses	13000		8,266,076
Total		$	9,258,888

345 - Department of Economic Development –

Office of the Secretary –

Office of Economic Opportunity

(WV Code Chapter 5)

Fund 8901 FY 2023 Org 0307

Personal Services and Employee Benefits	00100	$	854,189
Repairs and Alterations	06400		250

Equipment	07000	6,000
Unclassified	09900	106,795
Current Expenses	13000	20,303,081
Total		$ 21,270,315

DEPARTMENT OF EDUCATION

346 - State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2023 Org 0402

Personal Services and Employee Benefits	00100	$ 5,890,196
Unclassified	09900	2,000,000
Current Expenses	13000	1,434,146,008
Repairs and Alterations	06400	10,000
Equipment	07000	10,000
Other Assets	69000	10,000
Federal Coronavirus Pandemic	89101	4,990,123
Total		$ 1,447,056,327

347 - State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2023 Org 0402

Personal Services and Employee Benefits	00100	$ 1,924,124
Unclassified	09900	1,150,500
Current Expenses	13000	258,781,265
Repairs and Alterations	06400	20,000
Equipment	07000	100,000
Other Assets	69000	25,000
Total		$ 262,000,889

348 - State Board of Education –

Vocational Division

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2023 Org 0402

Personal Services and Employee Benefits	00100	$	1,938,607
Unclassified	09900		155,000
Current Expenses	13000		17,820,081
Repairs and Alterations	06400		10,000
Equipment	07000		10,000
Other Assets	69000		10,000
Total		$	19,943,688

349 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2023 Org 0402

Personal Services and Employee Benefits	00100	$	3,540,241
Unclassified	09900		1,000,000
Current Expenses	13000		133,346,390
Repairs and Alterations	06400		10,000
Equipment	07000		10,000
Other Assets	69000		10,000
Federal Coronavirus Pandemic	89101		17,336,635
Total		$	155,253,266

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

350 - Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2023 Org 0432

Personal Services and Employee Benefits	00100	$	851,130
Current Expenses	13000		1,947,372
Repairs and Alterations	06400		1,000
Equipment	07000		1,000
Buildings	25800		1,000
Other Assets	69000		1,000
Land	73000		360
Total		$	2,802,862

351 - Commission for National and Community Service

(WV Code Chapter 5F)

Fund 8841 FY 2023 Org 0432

Personal Services and Employee Benefits	00100	$	446,874
Current Expenses	13000		5,587,325
Repairs and Alterations	06400		1,000
Total		$	6,035,199

352 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2023 Org 0433

Personal Services and Employee Benefits	00100	$	368,524
Current Expenses	13000		1,076,162
Equipment	07000		543,406
Total		$	1,988,092

353 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2023 Org 0439

Equipment	07000	$	1,000

DEPARTMENT OF ENVIRONMENTAL PROTECTION

354 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 8708 FY 2023 Org 0313

Personal Services and Employee Benefits	00100	$ 32,273,598
Unclassified	09900	1,923,580
Current Expenses	13000	153,850,118
Repairs and Alterations	06400	739,783
Equipment	07000	1,712,238
Other Assets	69000	2,177,261
Land	73000	80,000
Total		$ 192,756,578

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

355 - Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 8723 FY 2023 Org 0506

Personal Services and Employee Benefits	00100	$ 1,660,962
Unclassified	09900	73,307
Current Expenses	13000	92,583,302
Federal Coronavirus Pandemic	89101	4,886,344
Total		$ 99,203,915

356 - Division of Health –

Central Office

(WV Code Chapter 16)

Fund 8802 FY 2023 Org 0506

Personal Services and Employee Benefits	00100	$	16,607,893
Unclassified	09900		856,614
Current Expenses	13000		102,758,622
Equipment	07000		456,972
Buildings	25800		155,000
Other Assets	69000		380,000
Federal Coronavirus Pandemic	89101		248,935,941
Total		$	370,151,042

357 - Division of Health –

West Virginia Safe Drinking Water Treatment

(WV Code Chapter 16)

Fund 8824 FY 2023 Org 0506

West Virginia Drinking Water Treatment Revolving Fund – Transfer	68900	$	16,000,000

358 - Human Rights Commission

(WV Code Chapter 5)

Fund 8725 FY 2023 Org 0510

Personal Services and Employee Benefits	00100	$	455,925
Unclassified	09900		5,050
Current Expenses	13000		64,950
Total		$	525,925

359 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 8722 FY 2023 Org 0511

Personal Services and Employee Benefits	00100	$	80,538,993

Unclassified	09900	22,855,833
Current Expenses	13000	112,181,984
Medical Services	18900	3,935,000,000
Medical Services Administrative Costs	78900	132,380,661
CHIP Administrative Costs	85601	4,549,783
CHIP Services	85602	49,752,412
Federal Economic Stimulus	89100	5,002,723
Federal Coronavirus Pandemic	89101	151,642,105
Total		$ 4,493,904,494

DEPARTMENT OF HOMELAND SECURITY

360 - Office of the Secretary

(WV Code Chapter 5F)

Fund 8876 FY 2023 Org 0601

Unclassified	09900	$ 5,000
Current Expenses	13000	495,000
Total		$ 500,000

361 - Division of Emergency Management

(WV Code Chapter 15)

Fund 8727 FY 2023 Org 0606

Personal Services and Employee Benefits	00100	$ 1,418,043
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	61,250
Current Expenses	13000	20,429,281
Repairs and Alterations	06400	5,000
Equipment	07000	100,000
Total		$ 22,013,574

362 - Division of Corrections and Rehabilitation

(WV Code Chapters 15A)

Fund 8836 FY 2023 Org 0608

Unclassified	09900	$	1,100
Current Expenses	13000		108,900
Total		$	110,000

363 - West Virginia State Police

(WV Code Chapter 15)

Fund 8741 FY 2023 Org 0612

Personal Services and Employee Benefits	00100	$	2,502,056
Current Expenses	13000		2,125,971
Repairs and Alterations	06400		42,000
Equipment	07000		2,502,285
Buildings	25800		750,500
Other Assets	69000		144,500
Land	73000		500
Total		$	8,067,812

364 - Fire Commission

(WV Code Chapter 29)

Fund 8819 FY 2023 Org 0619

Current Expenses	13000	$	80,000

365 - Division of Administrative Services

(WV Code Chapter 15)

Fund 8803 FY 2023 Org 0623

Personal Services and Employee Benefits	00100	$	1,270,062
Unclassified	09900		25,185
Current Expenses	13000		75,381,973
Repairs and Alterations	06400		1,750
Total		$	76,678,970

DEPARTMENT OF REVENUE

366 - Insurance Commissioner

(WV Code Chapter 33)

Fund 8883 FY 2023 Org 0704

Personal Services and Employee Benefits	00100	$	145,000
Current Expenses	13000		2,825,000
Equipment	07000		30,000
Total		$	3,000,000

DEPARTMENT OF TRANSPORTATION

367 - Division of Motor Vehicles

(WV Code Chapter 17B)

Fund 8787 FY 2023 Org 0802

Personal Services and Employee Benefits	00100	$	551,394
Current Expenses	13000		5,448,106
Repairs and Alterations	06400		500
Total		$	6,000,000

368 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2023 Org 0805

Personal Services and Employee Benefits	00100	$	1,040,576
Current Expenses	13000		18,863,149
Repairs and Alterations	06400		2,500
Equipment	07000		3,501,714
Buildings	25800		2,450,000
Other Assets	69000		250,000
Total		$	26,107,939

369 - Aeronautics Commission

(WV Code Chapter 29)

Fund 8831 FY 2023 Org 0807

Current Expenses	13000	$	400,000
Other Assets	69000		100
Total		$	400,100

DEPARTMENT OF VETERANS' ASSISTANCE

370 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 8858 FY 2023 Org 0613

Personal Services and Employee Benefits	00100	$	3,016,683
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		57,120
Current Expenses	13000		2,840,300
Repairs and Alterations	06400		20,000
Equipment	07000		25,000
Buildings	25800		250,000
Land	73000		500
Veterans' Cemetery	80800		175,000
Federal Coronavirus Pandemic	89101		1,900,000
Total		$	8,284,603

371 - Department of Veterans' Assistance – Veterans' Home

(WV Code Chapter 9A)

Fund 8728 FY 2023 Org 0618

Personal Services and Employee Benefits	00100	$	951,931
Current Expenses	13000		595,700
Repairs and Alterations	06400		60,500
Equipment	07000		10,500

Buildings	25800		500
Other Assets	69000		6,500
Land	73000		100
Federal Coronavirus Pandemic	89101		1,600,000
Total		$	3,225,731

BUREAU OF SENIOR SERVICES

372 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 8724 FY 2023 Org 0508

Personal Services and Employee Benefits	00100	$	783,001
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		8,840
Current Expenses	13000		13,811,853
Repairs and Alterations	06400		3,000
Total		$	14,606,694

MISCELLANEOUS BOARDS AND COMMISSIONS

373 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 8726 FY 2023 Org 0603

Unclassified	09900	$	982,705
Mountaineer ChalleNGe Academy	70900		11,573,992
Martinsburg Starbase	74200		547,801
Charleston Starbase	74300		516,838
Military Authority	74800		88,132,332
Total		$	101,753,668

The Adjutant General shall have the authority to transfer between appropriations.

374 - Adjutant General –

West Virginia National Guard Counterdrug Forfeiture Fund

(WV Code Chapter 15)

Fund 8785 FY 2023 Org 0603

Personal Services and Employee Benefits	00100	$	1,350,000
Current Expenses	13000		150,000
Repairs and Alterations	06400		50,000
Equipment	07000		200,000
Buildings	25800		100,000
Other Assets	69000		100,000
Land	73000		50,000
Total		$	2,000,000

375 - Public Service Commission –

Motor Carrier Division

(WV Code Chapter 24A)

Fund 8743 FY 2023 Org 0926

Personal Services and Employee Benefits	00100	$	1,410,819
Current Expenses	13000		368,953
Repairs and Alterations	06400		39,000
Equipment	07000		1,000
Total		$	1,819,772

376 - Public Service Commission –

Gas Pipeline Division

(WV Code Chapter 24B)

Fund 8744 FY 2023 Org 0926

Personal Services and Employee Benefits	00100	$	639,344
Unclassified	09900		4,072
Current Expenses	13000		124,628
Equipment	07000		3,000
Total		$	771,044

377 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2023 Org 0941

Personal Services and Employee Benefits	00100	$	193,043
Current Expenses	13000		328,008
Repairs and Alterations	06400		5,000
Equipment	07000		3,000
Other Assets	69000		2,000
Total		$	531,051

Total TITLE II, Section 6 – Federal Funds		$ 8,912,932,524

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 2023.

378 - Department of Economic Development –

Office of the Secretary –

Community Development

Fund 8746 FY 2023 Org 0307

Personal Services and Employee Benefits	00100	$	10,662,609
Unclassified	09900		2,375,000
Current Expenses	13000		224,476,883
Total		$	237,514,492

379 - Department of Economic Development –

Office of the Secretary –

Office of Economic Opportunity –

Community Services

Fund 8902 FY 2023 Org 0307

Personal Services and Employee Benefits	00100	$	771,289
Unclassified	09900		125,000
Current Expenses	13000		17,781,811
Repairs and Alterations	06400		1,500
Equipment	07000		9,000
Total		$	18,688,600

380 - WorkForce West Virginia –

Workforce Investment Act

Fund 8749 FY 2023 Org 0323

Personal Services and Employee Benefits	00100	$	2,941,437
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		124,018
Unclassified	09900		23,023
Current Expenses	13000		63,381,511
Repairs and Alterations	06400		1,600
Equipment	07000		500
Buildings	25800		1,100
Total		$	66,473,189

381 - Division of Health –

Maternal and Child Health

Fund 8750 FY 2023 Org 0506

Personal Services and Employee Benefits	00100	$	2,343,848
Unclassified	09900		81,439
Current Expenses	13000		5,794,267
Total		$	8,219,554

382 - Division of Health –

Preventive Health

Fund 8753 FY 2023 Org 0506

Personal Services and Employee Benefits	00100	$	274,388
Unclassified	09900		22,457
Current Expenses	13000		1,895,366
Equipment	07000		165,642
Total		$	2,357,853

383 - Division of Health –

Substance Abuse Prevention and Treatment

Fund 8793 FY 2023 Org 0506

Personal Services and Employee Benefits	00100	$	683,799
Unclassified	09900		115,924
Current Expenses	13000		10,853,740
Federal Coronavirus Pandemic	89101		14,965,070
Total		$	26,618,533

384 - Division of Health –

Community Mental Health Services

Fund 8794 FY 2023 Org 0506

Personal Services and Employee Benefits	00100	$	571,034
Unclassified	09900		33,533

Current Expenses	13000	4,883,307
Federal Coronavirus Pandemic	89101	12,480,519
Total		$ 17,968,393

385 - Division of Human Services –

Energy Assistance

Fund 8755 FY 2023 Org 0511

Personal Services and Employee Benefits	00100	$ 1,959,926
Unclassified	09900	350,000
Current Expenses	13000	38,182,151
Federal Coronavirus Pandemic	89101	48,296,777
Total		$ 88,788,854

386 - Division of Human Services –

Social Services

Fund 8757 FY 2023 Org 0511

Personal Services and Employee Benefits	00100	$ 9,106,066
Unclassified	09900	171,982
Current Expenses	13000	8,870,508
Total		$ 18,148,556

387 - Division of Human Services –

Temporary Assistance for Needy Families

Fund 8816 FY 2023 Org 0511

Personal Services and Employee Benefits	00100	$ 21,331,693
Unclassified	09900	1,250,000
Current Expenses	13000	105,871,588
Federal Coronavirus Pandemic	89101	4,617,546
Total		$ 133,070,827

388 - Division of Human Services –

Child Care and Development

Fund 8817 FY 2023 Org 0511

Personal Services and Employee Benefits	00100	$ 2,867,623
Unclassified	09900	350,000
Current Expenses	13000	47,000,307
Federal Coronavirus Pandemic	89101	330,722,313
Total		$ 380,940,243
Total TITLE II, Section 7 – Federal Block Grants		$ 998,789,094

Sec. 8. Awards for claims against the state. — There are hereby appropriated for fiscal year 2023, from the fund as designated, in the amounts as specified, general revenue funds in the amount of $17,924, special revenue funds in the amount of $63,003, and state road funds in the amount of $433,232 for payment of claims against the state.

Sec. 9. Appropriations from general revenue fund 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 2023 out of surplus funds only, accrued from the fiscal year ending June 30, 2022, 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, 2022 from the fiscal year ending June 30, 2022, only after first meeting requirements of W.Va. Code §11B-2-20(b).

In the event that surplus revenues available on July 31, 2022, 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 as of the date mandated to meet the appropriation 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.

389 - West Virginia University –

General Administrative Fund

(WV Code Chapter 18B)

Fund 0344 FY 2023 Org 0463

West Virginia University – Surplus.....##### $ 14,100,000

390 - Marshall University –

General Administration Fund

(WV Code Chapter 18B)

Fund 0348 FY 2023 Org 0471

Marshall University – Surplus .....##### $ 8,100,000

391 - Department of Tourism –

Office of the Secretary

(WV Code Chapter 5B)

Fund 0246 FY 2023 Org 0304

Tourism – Brand Promotion –
Surplus.....##### $ 7,000,000

392 - State Board of Education –

Vocational Division

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2023 Org 0402

Jobs & Hope – Surplus .....##### $ 2,771,363

393 - Department of Revenue

(WV Code Chapter 11)

Fund #### FY 2023 Org ####

Directed Transfer – Surplus ..... ##### $ 96,000,000

The above appropriation for Directed Transfer – Surplus (fund ####, appropriation #####) shall be credited to Fiscal Year 2023 collections.

394 - Department of Commerce –

Office of the Secretary

(WV Code Chapter 19)

Fund 0606 FY 2023 Org 0327

Directed Transfer – Surplus ..... 70099 $ 1,000,000

The above appropriation for Directed Transfer – Surplus (fund 0606, appropriation 70099) shall be transferred to the Marketing and Communications Operating Fund (fund 3002).

395 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 0135 FY 2023 Org 1400

Personal Services and
Employee Benefits – Surplus..... 24301 $ 550,000

396 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2023 Org 0613

Personal Services and Employee Benefits – Surplus	24301	$	293,474
Veterans' Nursing Home – Surplus	29100		652,530
Total		$	946,004

397 - Department of Veterans' Assistance – Veterans' Home

(WV Code Chapter 9A)

Fund 0460 FY 2023 Org 0618

Personal Services and Employee Benefits – Surplus	24301	$	69,783
Current Expenses – Surplus	13099		80,000
Total		$	149,783

398 - Division of Administrative Services

(WV Code Chapter 15)

Fund 0546 FY 2023 Org 0623

Current Expenses – Surplus	13099	$	11,400,000
Justice Reinvestment Initiative – Surplus	89599		750,000
Total		$	12,150,000

From the above appropriation for Current Expenses – Surplus (fund 0546, appropriation 13099) $11,400,000 shall be used for the Victims of Crime Act (VOCA).

399 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2023 Org 0211

Capital Outlay, Repairs and Equipment – Surplus	67700	$	4,000,000

400 - Department of Economic Development –

Office of the Secretary

(WV Code Chapter 5B)

Fund 0256 FY 2023 Org 0307

Directed Transfer – Surplus	70099	$	500,000
Global Economic Development – Surplus	20299		150,000
Total		$	650,000

The above appropriation for Directed Transfer – Surplus (fund 0256, appropriation 70099) shall be transferred to the Broadband Enhancement Fund (fund 3013).

401 - Division of Personnel

(WV Code Chapter 29)

Fund 0206 FY 2023 Org 0222

Directed Transfer – Surplus	70099	$	1,500,000

The above appropriation for Directed Transfer – Surplus (fund 0206, appropriation 70099) shall be transferred to the Department of Administration, Division of Personnel (fund 2440).

402 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 0433 FY 2023 Org 0603

Armory Board Transfer – Surplus	70199	$	1,525,000

403 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2023 Org 0439

Mountain Stage – Surplus ..... 24999 $ 150,000

404 - Division of Corrections and Rehabilitation –

Correctional Units

(WV Code Chapter 15A)

Fund 0450 FY 2023 Org 0608

Current Expenses – Surplus ..... 13099 $ 4,200,000

405 - Department of Revenue

(WV Code Chapter 11)

Fund #### FY 2023 Org ####

Directed Transfer – Surplus ..... #### $ 265,000,000

The above appropriation for Directed Transfer – Surplus (fund ####, appropriation #####) shall be transferred to the Stabilization and Future Economic Reform Fund (fund ####, appropriation #####), created in House Bill 4007 during the 2022 Regular Session.

Total TITLE II, Section 9 –
General Revenue
Surplus Accrued..... $ 419,792,150

Sec. 10. Appropriations from lottery net profits surplus accrued. — The following item is hereby appropriated from the lottery net profits, and is to be available for expenditure during the fiscal year 2023 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2022, 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, 2022.

In the event that surplus revenues available from the fiscal year ending June 30, 2022, 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.

406 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2023 Org 0508

Senior Services Medicaid Transfer – Lottery Surplus	68199	$ 14,000,000
In-Home Services and for Senior Citizens – Surplus	76699	2,000,000
Total TITLE II, Section 10 – Surplus Accrued		$ 16,000,000

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 2023 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2022, 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, 2022.

In the event that surplus revenues available from the fiscal year ending June 30, 2022, 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.

407 - Racing Commission –

General Administration

(WV Code Chapter 19)

Fund 7308 FY 2023 Org 0707

Directed Transfer	70000	$	800,000

From the above appropriation for Directed Transfer (fund 7308, appropriation 70000), $800,000 shall be transferred to the Racing Commission – General Administration (Fund 7305).

408 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2023 Org 0511

Medical Services – Lottery Surplus	68100	$	16,200,000
Total TITLE II, Section 11 – Surplus Accrued.....		$	17,000,000

Sec. 12. Special revenue appropriations. — There are hereby appropriated for expenditure during the fiscal year 2023 special revenues collected pursuant to general law enactment of the Legislature which are not paid into the state fund as general revenue under the provisions of W.Va. Code §12-2-2 and are not expressly appropriated under this act: 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 §12-2-1 et seq., W.Va. Code §12-3-1 et seq., and W.Va. Code §11B-2-1 et seq., 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: *Provided, however*, That federal funds received by the state may be expended only in accordance with Sections (6) or (7) of this Title and with W.Va. Code §4-11-1, *et seq. Provided further*, That federal funds that become available to a spending unit for expenditure while the Legislature is not in

session and the availability of such funds could not reasonably have been anticipated and included in this act may be only be expended in the limited circumstances provided by W. Va. Code §4-11-5(d): *And provided further*, That no provision of this Act may be construed to authorize the expenditure of federal funds except as provided in this section.

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 2023, 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 2023 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

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.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 430)**, and there were—yeas 93, nays 2, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Kimes and Pritt.

Absent and Not Voting: Clark, Evans, Hardy, McGeehan and Pack.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 250) passed.

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

On this question, the yeas and nays were taken **(Roll No. 431)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Evans, Hardy, Linville, McGeehan and Pack.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 250) takes effect from its passage.

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

The bill having been read a third time and then placed at the foot of all bills in earlier proceedings, the House returned to further consideration of **Com. Sub. for H. B. 4023**, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

Whereupon,

On motion of Delegate Summers, Com. Sub. for H. B. 4023 was laid upon the table.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leave of absence for the day were granted Delegate Hardy.

At 2:07 p.m., the House of Delegates recessed until 7:00 p.m.

* * * * * * * *

Evening Session

* * * * * * * *

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

Messages from the Senate

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3223, Prohibit state, county, and municipal governments from dedicating or naming any public structure for a public official who is holding office at the time.

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

H. B. 4019, Relating to deadlines for public charter schools.

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

Com. Sub. for H. B. 4242, Authorizing the Division of Labor to promulgate a legislative rule relating to Child Labor.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4297, To facilitate the sharing of information between the Department of Health and Human Resources and the State Auditor's office in order to investigate reports of financial abuse and neglect of a vulnerable adult.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4418, Relating to the Small Business Supplier Certification Assistance Program.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4420, To modify definitions of school bus operators.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4430, Relating to definitions of base salary and overtime for police and firemen pensions.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4461, Relating to the consolidation of all administrative fees collected by the agency into the existing "Tax Administration Services Fund".

A message from the Senate, by

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

Com. Sub. for H. B. 4484, Declaring certain claims against agencies of the state to be moral obligations of the state.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 4578, Relating to authorizing the Superintendent of the State Police to administer the Handle with Care program.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4675, Relating to autonomous delivery vehicles.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 4758, Relating to developing and maintaining a database to track reclamation liabilities in the West Virginia Department of Environmental Protection Special Reclamation Program.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 4769, Eliminate the requirement to send recommended decisions by certified mail.

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

S. C. R. 56 - "Requesting the Joint Committee on Government and Finance study the effect of *Kenney v. Liston*, 233 W. Va. 620 (2014). "

Whereas, in Syl. Pt. 7, *Kenney v. Liston*, 233 W. Va. 620 (2014), the West Virginia Supreme Court of Appeals held that, where an injured person's health care provider agrees to reduce, discount or write off a portion of the person's medical bill, the person may recover the entire reasonable value of the medical services necessarily required by the injury, and the tortfeasor is not entitled to receive the benefit of the reduced, discounted, or written-off amount: therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on the Judiciary is hereby requested to study the effect of *Kenney v. Liston*, 233 W. Va. 620 (2014); and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

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

S. C. R. 57 - "Requesting the West Virginia Insurance Commission study coverage options and costs for the coverage of medically necessary dental procedures that result from cancer related dental and oral health procedures."

Whereas, Approximately 50,000 Americans are diagnosed with oral cancer every year based upon reports of the Oral Cancer Foundation; and

Whereas, Half of the diagnosed individuals survive for five years or longer; and

Whereas, Since people might not have regular oral cancer screenings, this cancer is often detected late and at a more dangerous stage; and

Whereas, In order to improve patient outcomes, the West Virginia Insurance Commission is directed to study coverage options and costs if provided by insurance plans covered under §33-1-1 *et seq.* W. Va. Code for the coverage of medically necessary dental procedures to include the following: Evaluations, examinations, patient education, laboratory assessments, medications, treatments, restoration, rehabilitation, medical devices, and prosthesis needed to obtain cancer treatment or restore whole or partial function associated with eating, breathing, voice, speech, and swallowing related to a cancer diagnosis; and

Whereas, The West Virginia Insurance Commission is directed to study coverage options and costs if provided by insurance plans covered under §33-1-1 *et seq.* W. Va. Code for the coverage of medically necessary oral health procedures to include the following: Surgery, chemotherapy, biotherapy, pharmacology, immunotherapy, or radiation related to a cancer diagnosis; therefore be it

Resolved by the Legislature of West Virginia:

That the West Virginia Insurance Commission study coverage options and costs for the coverage of medically necessary dental procedures that result from cancer related dental and oral health procedures; and, be it

Further Resolved, That the West Virginia Insurance Commission shall report to the Legislative Oversight Commission on Health and Human Resources Accountability on July 1, 2023.

In the absence of objection, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

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

Your Committee on Rules has had under consideration:

H. C. R. 97, U.S. Army Air Corps Private Albert J. Sutphin Memorial Highway,

H. C. R. 99, Lt. Col. Mitchell M. Mickel Memorial Bridge,

Com. Sub. for S. C. R. 29, Nitro WW I Memorial Bridge,

S. C. R. 37, Harrison County Veterans Memorial Bridge,

Com. Sub. for S. C. R. 38, Cox Brothers' Veteran Memorial Bridge,

And,

Com. Sub. for S. C. R. 45, US Army CPL John D. Doyle, Sr. Memorial Road,

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

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 528, Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 528) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 624, Making supplementary appropriation to DHHR, Division of Health, Laboratory Services,

Com. Sub. for S. B. 625, Making supplementary appropriation to DHHR, Division of Health, Vital Statistics Account,

S. B. 633, Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund,

S. B. 634, Making supplementary appropriation to DHHR, Division of Health – Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations,

S. B. 715, Decreasing and increasing existing items of appropriations from State Fund, General Revenue,

S. B. 716, Supplemental appropriation to DOE, WV BOE, Strategic Staff Development,

S. B. 717, Supplemental appropriation to Miscellaneous Boards and Commissions, Board of Medicine, Medical Licensing Board,

S. B. 718, Supplemental appropriation to Department of Administration, Travel Management, Aviation Fund,

S. B. 719, Supplemental appropriation to DHS, Fire Commission, Fire Marshal Fees,

S. B. 720, Supplementing and amending appropriations to Executive, Governor's Office, Civil Contingent Fund,

S. B. 722, Expiring funds to DEP, Division of Environmental Protection, Reclamation of Abandoned and Dilapidated Property Program Fund,

S. B. 723, Making supplementary appropriation to Department of Agriculture, WV Spay Neuter Assistance Fund,

S. B. 724, Making supplementary appropriation to DHS, Division of Corrections and Rehabilitation, Regional Jail and Correctional Facility Authority,

And,

S. B. 725, Supplementing and amending appropriations to DHS, WV State Police,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bills (S. B. 624, Com. Sub. for S. B. 625, S. B. 633, S. B. 634, S. B. 715, S. B. 716, S. B. 717, S. B. 718, S. B. 719, S. B. 720, S. B. 722, S. B. 723, S. B. 724 and S. B. 725) were each taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 242, Restricting authority to prevent or limit owner's use of natural resources or real property in certain agricultural operations,

Com. Sub. for S. B. 434, Updating authority to airports for current operations,

Com. Sub. for S. B. 668, Clarifying eligibility for probation and parole conditions for sex offenses,

And,

S. B. 693, Clarifying meeting voting requirements for political party executive committees,

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

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

Your Committee on Government Organization has had under consideration:

S. B. 617, Relating to qualifications for members of boards, commissions, and other entities,

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

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 5, Creating WV Unmanned Aircraft Systems Advisory Council,

Com. Sub. for S. B. 138, Relating to Board of Medicine composition,

Com. Sub. for S. B. 530, Encouraging public-private partnerships in transportation,

Com. Sub. for S. B. 582, Creating WV Workforce Resiliency Act,

Com. Sub. for S. B. 611, Removing cap on bidder's contract bond,

And,

S. B. 685, Relating to WV Real Estate License Act,

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

At the respective requests of Delegate Summers, and by unanimous consent, Com. Sub. for S. B. 5 was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 588, Relating to WV Rails to Trails Program,

And,

S. B. 714, Relating to tie votes by Coal Mine Safety and Technical Review Committee,

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

Delegate Rohrbach, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 518, Allowing nurses licensed in another state to practice in WV,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 518) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Rohrbach, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 585, Creating administrative medicine license for physicians not practicing clinical medicine,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 585) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 230, Relating generally to public employees grievance procedure,

Com. Sub. for S. B. 568, Relating to health insurance loss ratio information,

And,

S. B. 728, Requiring registered sex offenders pay annual fee,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 552, Relating to tax sale process,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 424, Relating generally to 2022 Farm Bill,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 424) to the Committee on Finance was abrogated.

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 334, Authorizing miscellaneous agencies and boards to promulgate rules,

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

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 643, Removing residency requirement of members appointed to county airport authority,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 643) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on Education has had under consideration:

Com. Sub. for S. B. 268, Creating exemption from compulsory school attendance for child who participates in learning pod or micro school,

And,

S. B. 711, Establishing alternative educational opportunities for elective course credit,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 610, Relating to duties, powers and responsibilities of DOT Secretary,

And,

Com. Sub. for S. B. 662, Relating to creation, expansion, and authority of resort area district,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 463, Best Interests of Child Protection Act of 2022,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 441, Providing confidentiality of video and other records of correctional juvenile facilities,

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

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 476, Relating to imposition of minimum severance tax on coal,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 476) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

S. B. 726, Relating to pre-trial diversion agreements and deferred prosecution agreements,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 647, Prohibiting discrimination in organ donation process,

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

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 2, Relating to unemployment benefits program,

S. B. 172, Increasing compensation of elected county officials,

Com. Sub. for S. B. 261, Requiring video cameras in certain special education classrooms,

S. B. 442, Relating to WV Public Employee Retirement System,

Com. Sub. for S. B. 487, Relating to Revenue Shortfall Reserve Fund and Revenue Shortfall Reserve Fund – Part B,

Com. Sub. for S. B. 533, Relating to funding for health sciences and medical schools in state,

Com. Sub. for S. B. 574, Relating to WV PEIA,

And,

S. B. 686, Clarifying use of notes and bonds of WV Housing Development Fund,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bills (S. B. 172, Com. Sub. for S. B. 261 and Com. Sub. for S. B. 487) were each taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Jeffries, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 8th day of March, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

S. B. 499, Authorizing legislative rules for School Building Authority,

And,

S. B. 713, Removing statutory limit for Environmental Laboratory Certification Fund.

Miscellaneous Business

Pursuant to House Rule 132, consent was obtained to print the following remarks in the Appendix to the Journal:

- Delegate Gearheart regarding Com. Sub. for S. B. 250

At 8:07 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, March 09, 2022.

Wednesday, March 9, 2022

FIFTY-SEVENTH DAY

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

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

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

The Clerk proceeded to read the Journal of Tuesday, March 8, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that S. B. 728 on First Reading, Special Calendar, had been transferred to the House Calendar; and, Com. Sub. for S. B. 25 and S. B. 493 on Second Reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 10, Relating to WVU Rifle Team electronic application donation program,

Com. Sub. for S. B. 656, Providing tax credit for certain corporations with child-care facilities for employees,

And,

S. B. 729, Relating to funding for infrastructure and economic development projects in WV,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bills (S. B. 10, Com. Sub. for S. B. 656 and S. B. 729) were each taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 247, Relating to certified community behavioral health clinics,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 247) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 71, Prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, or other legal requirements,

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

On motion of Delegate Summers, the bill (Com. Sub. for S. B. 71) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 536, Relating generally to controlled substance criminal offenses,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 536) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 498, Creating Anti-Racism Act of 2022,

And,

Com. Sub. for S. B. 590, Clarifying that tenancy includes persons who reside in sober living home,

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

On motion of Delegate Summers, the bills (Com. Sub. for S. B. 498 and Com. Sub. for S. B. 590) were each taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 7, Relating to damages for medical monitoring,

And,

Com. Sub. for S. B. 573, Providing system where magistrates shall preside in certain instances outside normal court hours,

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

Delegate Garcia moved to reject Com. Sub. for S. B. 7.

The Speaker explained that procedurally it would be necessary to move to reject the entire report.

On the question of rejection of the report of the Committee on the Judiciary, the same was put and did not prevail.

The report was then received.

On motion of Delegate Summers, the bills (Com. Sub. for S. B. 7 and Com. Sub. for S. B. 573) were each taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Jeffries, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 9th day of March, 2022, presented to His Excellency, the Governor, for his action, the following bill(s), signed by the President of the Senate and the Speaker of the House of Delegates.

Com. Sub. for H. B. 4084, Relating to advanced recycling,

Com. Sub. for H. B. 4126, Authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules,

And,

H. B. 4773, Adoption of the FCC customer service and technical standards and requiring certain cable operators to operate an in-state customer call center.

Messages from the Executive

The following communications were laid before the House of Delegates and reported by the Clerk:

Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305
March 8, 2022

Executive Message 2
2022 Regular Session
The Honorable Roger Hanshaw
Speaker, West Virginia House of Delegates
State Capitol, Rm 228M
Charleston, WV 25305

Dear Mr. Speaker:

Pursuant to the provisions of section twenty, article one, chapter five of the Code of West Virginia, I hereby certify that the following annual reports have been received in the Office of the Governor:

211, West Virginia; 2020 Impact Report

Administration, West Virginia Department of; Real Estate Division "2020 Real Property and Lease Report"

Administration, West Virginia Department of; "Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2020"

Administration, West Virginia Department of; State Building Commission Fund

Agriculture, West Virginia Department of; 2020 Annual Report

Agriculture, West Virginia Department of; Annual Report for the WV Farms-to Food Bank Tax Credit for calendar years 2019 and 2020

Agriculture, West Virginia Department of; Annual Report for the WV Farms-to Food Bank Tax Credit for calendar years 2020 and 2021

American Bar Foundation; 2019 Annual Report

Architects, West Virginia Board of; Annual Report FY 2020 & FY 2019

Attorney General's Office, West Virginia; "Seventy-Eighth Biennial Report and Official Opinions of the Attorney General of the State of West Virginia for the Fiscal Years Beginning July 1, 2018, and ending June 30, 2020"

Attorney General's Office, West Virginia; "2020 Annual Report on the Activities of the Consumer Protection and Antitrust Division"

Attorney General's Office, West Virginia; Annual Report 2020

Barbers and Cosmetologists, State of West Virginia Board of; 2020 Annual Report

Board of Pharmacy, West Virginia; Annual Report on the West Virginia Controlled Substances Monitoring Program

Broadband Enhancement Council, West Virginia; 2020 Annual Report

Chiropractic Examiners, State of West Virginia Board of; Biennium Report July 1, 2018, to June 30, 2020

Coal Mine Health and Safety, State of West Virginia Board of; 2020 Annual Report

Commerce, West Virginia Department of; Tourism Development Act Report 2020

Commerce, West Virginia Department of; FY20 TIF Annual Report

Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee; 2020 Annual Report

Community Action of Southeastern West Virginia, Inc. (CASEWV); 2021 CASEWV Annual Report for its Head Start and Early Head Start Programs

Consolidated Public Retirement Board; West Virginia State Police Disability Experience Annual Report Fiscal Year 2020

Consolidated Public Retirement Board, West Virginia; 2020 Comprehensive Annual Financial Report

Consumer Advocate, Office of the West Virginia; Consumer Advocate Division 2021 Annual Report

Counseling, State of West Virginia Board of Examiners in; Biennium Report July 1, 2018-June 30, 2020

Dentistry, West Virginia Board of; Report of the Biennium for Fiscal Years 2019 & 2020

Development Office, West Virginia; Annual Report 2019

Development Office, West Virginia; FY 2019 Neighborhood Investment Program Annual Report

Development Office, West Virginia; 2018 Final Report on the Assessment 2015-2017

Engineers, West Virginia State Board of Registration for Professional; Annual Report FY2020

Environmental Protection, West Virginia Department of; 2020 Monthly and Year to Date OOG Permit Issuance Averages

Equal Employment Opportunity, West Virginia; 2020 Annual Report

Fire Commission, West Virginia State; FY 2020 Annual Report

Fire Marshal's Office, West Virginia State; FY 2020 Annual Report

Forestry, West Virginia Division of; Outdoor Heritage Conservation Funding Annual Report

Forestry, West Virginia Division of; 2020 Stewardship Projects Annual Report

Forestry, West Virginia Division of; Report on Managed Timberland Program

Government Accountability, Foundation for; 2019 Annual Report

Grievance Board, Public Employees; 2020 Annual Report

Health and Human Resources, West Virginia Department of; Annual Report on the Olmstead Plan July 1, 2019-June 30, 2020

Health and Human Resources, West Virginia Department of; "Family Protection Services Board 2020 Annual Report July 1, 2019-June 30, 2020"

Health and Human Resources, West Virginia Department of; Office of Maternal, Child and Family Health (West Virginia Birth Defects) Calendar Years 2018 and 2019 (January-December)

Health and Human Resources, West Virginia Department of; Bureau for Public Health- West Virginia Office of Medical Cannabis Biennial Report 2021

Health and Human Resources, West Virginia Department of; Bureau for Behavioral Health- West Virginia Family & Community Support Program FY 2020 Annual Report

Health and Human Resources, West Virginia Department of; West Virginia Women's Commission 2020 Annual Report

Highways, West Virginia Division of; Annual Report (The Complete Streets Advisory Board)

Homeland Security, West Virginia Department of; Accomplishments 2017-2020 Report

Human Rights Commission, West Virginia; Annual Report 2020

Independent Living Council, West Virginia Statewide; "The State of Education for Children with Disabilities in West Virginia-Education Task Force; Annual Report 2019-2020"

Insurance Commissioner, State of West Virginia Offices of the; Occupational Pneumoconiosis Board 2019-2020 Annual Report

Insurance Commissioner, State of West Virginia Offices of the; West Virginia State Agency Workers' Compensation Annual Report

Insurance Commissioner, State of West Virginia Offices of the; 2019-2020 Annual Report

Insurance Commissioner, State of West Virginia Offices of the; Consumer Advocate Annual Report

Insurance Commissioner, State of West Virginia Offices of the; 2020 Annual Medical Malpractice Report

Judicial Compensation Commission, West Virginia; Report of the Judicial Compensation Commission 2020

Justice and Community Services, Division of Administrative; "Justice Reinvestment Initiative S.B. 371 July 1. 2019-June 30, 2020, Annual Report"

Justice and Community Services, Division of Administrative; "Juvenile Justice Subcommittee September 1, 2019-August 31, 2020, Annual Report"

Justice and Community Services, Division of Administrative; "Sexual Assault Forensic Examination (SAFE) Commission Annual Report September 1, 2019-August 31, 2020"

Justice and Community Services, Division of Administrative; "West Virginia Community Corrections Act July 1, 2019-June 30, 2020, Annual Report"

Justice and Community Services, Division of Administrative; "Law Enforcement Professional Standards (LEPS) Subcommittee/Program July 1,2019-June 30, 2020"

Land Trust, West Virginia; Annual Report 2019

Legislative Claims Commission, West Virginia; Supplemental Report December 2020

Legislative Claims Commission, West Virginia; November 2020 Report of the Legislative Claims Commission

Lottery, West Virginia; "Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2019, and 2018"

Lottery, West Virginia; 2020 Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2020, and 2019

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending February 29, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending March 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending April 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending May 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending June 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending July 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending August 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending September 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending October 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending November 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending December 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending January 31, 2021

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending February 28, 2021

Medical Imaging and Radiation Therapy Technology Board of Examiners, West Virginia; Annual Report 2020

Municipal Bond Commission, West Virginia; Annual Summary of Receipts and Disbursements July 1, 2019-June 30, 2020

National Coal Heritage Area Authority; 2020 Annual Report

Natural Resources, West Virginia Division of; 2019-2020 West Virginia Division of Natural Resources Annual Report

Nursing Home Administrators Licensing Board; Annual Report 2020

Occupational Therapy, West Virginia Board of; Annual Report 2019-2020

Osteopathic Medicine, West Virginia School of; Annual Report

Privacy Office, West Virginia State; 2018-2019 Annual Report

Psychologists, West Virginia Board of; 2019-2020 Annual Report

Public Service Commission, West Virginia; State of West Virginia Public Utility Assessments Tax Year 2021

Public Service Commission, West Virginia; 2020 Management Summary Report and the Electric and Natural Gas Utilities Supply-Demand Forecasts for 2021-2030

Public Transit, West Virginia Division of Transportation/Division; 2019 Annual State Safety Oversight Report to the Governor

Regional Councils, West Virginia Association of; 2019 Annual Report

Regional Intergovernmental Council; 2020 Annual Report Boone, Clay, Kanawha, and Putnam

Rehabilitation Services, West Virginia Division of; 2021 Annual Report

Risk and Insurance Management, State of West Virginia Department of Administration; BRIM Annual Report 2020

Ron Yost Personal Assistance Services; 2020 Annual Report

Southern States Energy Board; Annual Report 2020

Tax Department, West Virginia State; "Manufacturing Property Tax Adjustment Credit Report to the Joint Committee on Government and Finance July 1, 2020"

Tax Department, West Virginia State; Tax Credit Review and Accountability Report for the West Virginia Economic

Opportunity Tax Credit and the West Virginia Manufacturing Investment Tax Credit

Tax Department, West Virginia State; West Virginia Tax Expenditure Study for 2021

Transportation, West Virginia Department of; Division of Public Transit- State Safety Oversight Program-2020 Annual Safety Report to the Governor

Transportation, West Virginia Department of; The Office of Administrative Hearings Annual Report Fiscal Year 2020

Transportation, West Virginia Department of; Aeronautics Commission 2020 Annual Report to the Governor

Treasurer, West Virginia State; Cash Management Improvement Act CIMA Annual Report for fiscal years 2020

Treasury Investments, West Virginia Board of; "Audited Financial Statements with Supplementary & Other Financial Information Year Ended 6/30/20"

Treasury Investments, West Virginia Board of; Comprehensive Annual Financial Report Fiscal Year Ended

Veterinary Medicine, West Virginia Board of; Biennium Report 2019 and 2020

Water Development Authority, West Virginia; 2020 Annual Report

Water Sanitation Commission, Ohio River Valley; Annual Report

Sincerely,

Jim Justice
Governor

Office of the Governor
1900 Kanawha Blvd., East

Charleston, WV 25305
March 8, 2022

EXECUTIVE MESSAGE NO. 3
2022 REGULAR SESSION
The Honorable Roger Hanshaw
Speaker, West Virginia House of Delegates
State Capitol, Rm 228M
Charleston, WV 25305

Dear Mr. Speaker:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of April 8, 2021 through March 7, 2022.

Very truly yours,

Jim Justice
Governor

A communication from His Excellency, the Governor, advised that on March 8, 2022, he approved **Com. Sub. for S. B. 221 and Com. Sub. for S. B. 452**.

Messages from the Senate

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

Com. Sub. for H. B. 2177, Permitting the issuance of a state issued identification card without a photo on the card under certain conditions.

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

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

"**ARTICLE 2. 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 18, those drivers age 18 to 21, 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 18 years of age or older with two years of driving experience who have qualified for the commercial driver's license established by chapter 17E of this code and the federal Motor Carrier Safety and Improvement Act of 1999 subsequent rules, and have paid the required fee.

(2) A Class D license shall be issued to those persons 18 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 17E 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 17E of this code or federal law or rule: *Provided,* That anyone not required to be licensed under the provisions of chapter 17E 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 §17A-10-1 of this code, with a gross vehicle weight rating of less than 8,001 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~~ §17B-2-7b of this code for motorcycle operation. The Class E or G license for a person under the age of 18 may also be endorsed with the appropriate graduated driver license level in accordance with ~~the provisions of~~ §17B-2-3a of this code.

(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 §17B-2B-1 *et seq.* of this code.

(d) All licenses issued under this section may contain information designating the licensee as a diabetic, an 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 §17A-2-17b of this code 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~~ §17A-3-1a 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 10 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 65 years or older;

(ii) Is legally blind; or

(iii) Will be at least 18 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~~ supplied 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 16. The division may issue an identification card without a photograph pursuant to subdivision (4) of this subsection. 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 21st 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 21st birthday expires 30 days after the licensee's 21st birthday.

(C) Every identification card issued to persons under the age of 16 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.

(4) Notwithstanding the provisions of this article to the contrary, the division may issue an identification card without a photograph to an applicant who under oath or affirmation affirms, subject to the laws of perjury and on a form supplied by the

division, that the applicant is a member of a recognized religious sect that has established tenets and teachings due to which the applicant is conscientiously opposed to posing for a photograph. The form supplied by the division pursuant to this subdivision shall advise the applicant that an identification card without a photograph may not be acceptable for all identification purposes.

(g) For any person over the age of 50 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 fraud.

(h) A person over the age of 70 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~~ supply 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 thereof, 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.

And,

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

Com. Sub. for H. B. 2177 – "A Bill to amend and reenact §17B-2-1 of the Code of West Virginia,1931, as amended, relating to identification cards without a photograph; authorizing the Division of Motor Vehicles to issue identification cards without a photograph; setting forth requirements for a form supplied by the division; and specifying requirements for applicants of an identification card without a photograph to obtain such a license."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 432)**, and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Martin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2177) passed.

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

On this question, the yeas and nays were taken **(Roll No. 433)**, and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Martin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2177) takes effect from its passage.

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

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

H. B. 2817, Donated Drug Repository Program.

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

On page nine, section six, after line fifty-one, by adding thereto two new subsections, designated subsections (p) and (q), to read as follows:

"(p) When complying with the provisions of this article and the rules and regulations adopted pursuant to this article, unless an action or omission constitutes willful or wanton misconduct, the following persons or entities shall not be subject to criminal or civil prosecution, criminal or civil liability for injury, death, or loss to person or property, other criminal or civil action, or disciplinary actions by licensing, professional, or regulatory agencies:

(1) A person that donates or gives drugs to an eligible recipient, including a drug wholesaler, reverse distributor pharmacy, third-party logistics provider, government entity, hospital, or health care facility;

(2) An eligible recipient;

(3) A health care professional who prescribes or dispenses a donated drug;

(4) The Board of Pharmacy;

(5) An intermediary that helps administer the program by facilitating the donation or transfer of drugs to eligible recipients;

(6) A repackager of a donated drug; and

(7) Any employee, volunteer, trainee, or other staff of individuals and entities listed in subdivisions (1) through (6).

(q) An entity participating in a drug donation or repository program operated by another state may participate in this program, and in the case of a pharmacy, may dispense donated drugs to residents of this state. This entity is required to comply with all laws and rules in this state unless such laws or rules differ or conflict with the laws or rules of the state in which the entity is located."

And,

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

H. B. 2817 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated

§60B-1-1, §60B-1-2, §60B-1-3, §60B-1-4, §60B-1-5, §60B-1-6, §60B-1-7, and §60B-1-8, all relating to creating the Donated Drug Repository Program; establishing the West Virginia Board of Pharmacy has the authority to administer the program; setting forth eligibility requirements; establishing how the drugs are to be treated; permitting a handling fee; defining terms; providing for liability protection; providing criminal immunity; providing that entity participating in a drug donation operated by another state may participate in this program and in the case of a pharmacy may dispense donated drugs to the residents of this state; and requiring rulemaking."

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

On page 1, subdivision (1), after the word, "wholesaler," by inserting the words, "drug manufacturer,";

And,

On page 1, subdivision (6), after the word, "repackager" by inserting the words, "or manufacturer".

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

On the passage of the bill, the yeas and nays were taken **(Roll No. 434)**, and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Paynter.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2817) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4003, Relating generally to commercial benefit of substances removed from waters of the state by the treatment of mine drainage.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate, with further amendment, amending the title:

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

"**ARTICLE 2. ABANDONED MINE LANDS AND RECLAMATION ACT.**

§22-2-10. Benefits derived from substances separated by treatment of pollution from mine drainage in the waters of the state; public policy; legislative findings, intent, and purpose; severability.

(a) *Public Policy.* It is the long-standing public policy of the State of West Virginia, pursuant to § 22-11-1 *et seq.* of this code, the Water Pollution Control Act, that the state is compelled to maintain reasonable standards of purity and quality of the waters of the state which are consistent with public health and the protection of all forms of life. It is also the long-standing public policy of this state, pursuant to § 20-2-1 *et seq.* of this code, that wildlife resources in this state shall be held as a public trust by the state and protected for the use and enjoyment of its citizens.

(b) *Legislative Findings, Intent, and Purpose.* The Legislature finds that treatment of mine drainage reduces environmental harm by reducing toxic substances and pollution in the waters of the state. The Legislature finds that the necessary and expensive treatment of mine drainage to remove pollution from the waters of the state, and disposal of the same, may produce materials that contain valuable concentrations of rare earth elements, critical materials, and other substances which may be utilized for

commercial gain. The Legislature finds that these materials found within the waters of the state are part of the water and can only be separated from the water with expensive and continuing investments of resources which may last for decades. The Legislature enacts this section with the intent of fulfilling the state's obligations to maintain reasonable standards of purity and quality of the waters of the state, consistent with public health and the protection of all forms of life, by encouraging investments into the treatment of mine drainage.

(c) Notwithstanding any provision of this code or common law to the contrary, all chemical compounds, elements, and other potentially toxic materials which are found within the waters of this state, which are derived from the treatment of mine drainage, and which have economic value, may be used, sold, or transferred by the Department of Environmental Protection, or its designee, for commercial gain and benefit. All funds received by the department shall be deposited at the discretion of the secretary into the Special Reclamation Water Trust Fund or the Acid Mine Drainage Set-Aside Fund, and used by the department to fulfill its obligations under this code: *Provided,* That nothing in this subsection shall be construed to interfere with any existing contract or the ability of the department to enter into an agreement with private parties with respect to the removal, sale, or transfer of said chemical compounds, elements, and other potentially toxic materials.

(d) Notwithstanding any provision of this code or common law to the contrary, all chemical compounds, elements, and other potentially toxic materials which are found within the waters of this state which are derived from the treatment of mine drainage, and which have economic value, may be used, sold, or transferred by any party, other than the department, who successfully removes said chemical compounds, elements, and other potentially toxic materials from the waters of this state for commercial gain and benefit: *Provided,* That nothing in this subsection shall be construed to interfere with any existing contract or the ability of parties to enter into an agreement with respect to the removal, sale, or transfer of said chemical compounds, elements, and other potentially toxic materials.

(e) The provisions of this section are severable, and if any part of this section is adjudged to be unconstitutional, unenforceable, or invalid, that determination does not affect the continuing validity of the remaining provisions of this section."

And,

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

Com. Sub. for H. B. 4003 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-2-10, relating generally to the ownership and commercial benefit of substances removed from waters of the state by the treatment of mine drainage; restating public policies concerning the maintenance of reasonable standards of purity and quality of the waters of the state consistent with public health and the protection of all forms of life; providing for legislative findings, intent, and purpose, including that treatment of mine drainage reduces environmental harm by reducing toxic substances and pollution in the waters of the state, that such treatment may produce valuable concentrations of materials which may be utilized for commercial gain, and that said materials are part of the water; stating the legislative intent of fulling the state's obligations to maintain reasonable standards of purity and quality of the waters of the state by encouraging investments into the treatment of mine drainage; providing that all chemical compounds, elements, and other potentially toxic materials found within the waters of this state and derived from the treatment of mine drainage which have economic value may be used, sold, or transferred by the Department of Environmental Protection or its designee for commercial gain and benefit; providing that all funds received by said department shall be deposited and used at the discretion of the secretary into already established environmental funds; providing that all chemical compounds, elements, and other potentially toxic materials found within the waters of this state and derived from the treatment of mine drainage which have economic value may be used, sold, or transferred by any party who successfully removes the same from the waters of this state for commercial gain and

benefit; providing for the protection of existing and future contracts; and providing a severability clause."

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

On the passage of the bill, the yeas and nays were taken **(Roll No. 435)**, and there were—yeas 91, nays 7, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Diserio, Fleischauer, Fluharty, Pushkin, Thompson, Walker and Zukoff.

Absent and Not Voting: Hamrick and Martin.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4003) passed.

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

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

Com. Sub. for H. B. 4065, Allowing the Division of Natural Resources to teach hunter's safety courses in school.

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

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

"**ARTICLE 2. STATE BOARD OF EDUCATION.**

§18-2-8a. Hunter safety orientation program.

(a) The Legislature finds that:

(1) Firearms and hunting are important parts of West Virginia's history, culture, and economy;

(2) Unfortunately, the use of firearms while hunting or at any other time can be dangerous when the firearms are not handled in a careful and safe manner; and

(3) Therefore, the opportunity of participating in a hunter safety orientation program should be offered to students in certain grades.

(b) The State Board of Education shall establish and implement a program of instruction of hunter safety orientation with appropriate classes and hands-on training. The hunter safety orientation program may be scheduled for the regular hours of the school day, so as to work in conjunction with the regular course schedule, or may be scheduled outside of the regular hours of instruction for the school day, if the resources and student interest allow. To the extent possible, the hunter safety orientation program shall be conducted at school facilities and scheduled so that students attending the program class may also make use of regularly provided student transportation.

~~(b)~~ (c) The State Board of Education shall, with the advice of the state Superintendent of Schools and the Director of the Division of Natural Resources, promulgate a rule in accordance with the provisions of §29A-3B-1 *et seq.* of this code for the implementation of a hunter safety orientation program for use in the public schools of this state. The rule shall, at a minimum, include ~~at least~~ the following provisions:

(1) ~~The hunter safety orientation program may be offered to students in any of the grade levels sixth through twelfth grades over a two week period during the school year as part of physical education classes, or as part of the general curriculum offered to students in any of these grade levels, or at the end of the school day~~ The hunter safety orientation program shall be offered at least once every spring semester in every middle school of the state. At the option of each county board of education, the hunter safety orientation program may also be offered during the fall semester in

any middle school in the state or may be offered in any high school in the state: *Provided,* That the demand to take the hunter safety orientation program is sufficient and that certified instructors are available. If there is an insufficient number of students at a middle school requesting or registering for the class in a given semester, the school shall not be required to conduct the class that semester. The county board of education shall have the discretion to establish the minimum number of students requesting the safety orientation program class in a semester necessary to provide the class that semester.

(2) The hunter safety orientation program is voluntary to students ~~and any student may choose not to participate in the program. If a student chooses not to participate in the program, he or she shall participate in another education activity~~;

(3) The hunter safety orientation program shall include instruction relating to:

(A) The protection of lives and property against loss or damage as a result of the improper use of firearms; and

(B) The proper use of firearms in hunting, sport competition, and the care and safety of firearms in the home;

(4) The hunter safety orientation program may use materials prepared by any national nonprofit membership organization which has as one of its purposes the training of people in marksmanship and the safe handling and use of firearms; and

(5) The hunter safety orientation program shall be conducted by an instructor employed or certified by the Division of Natural Resources or who has other training necessary to conduct the program as determined by the state board.

~~(c) The county superintendent may implement the hunter safety orientation program in accordance with the rule required by this section in each school in the county that includes any of grades 6 through twelve at which, in the sole judgement of the superintendent, sufficient student interest in program enrollment~~

~~justifies the program offering and an appropriately certified instructor is available~~

(d) The Division of Natural Resources shall issue a certificate of training, required by §20-2-30a of this code, to any student who completes the hunter safety orientation program."

And,

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

Com. Sub. for H. B. 4065 – "A Bill to amend and reenact §18-2-8a of the Code of West Virginia, 1931, as amended, relating to a hunter safety orientation program in public schools; requiring program to be established and implemented; establishing parameters for scheduling; directing the State Board of Education to promulgate a rule for program requirements and implementation; and providing minimum program requirements including parameters for when the program is required to be offered."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 436)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick and Martin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4065) passed.

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

A message from the Senate, by

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

H. B. 4097, To prohibit nonpublic funding sources for election administration and related expenses without prior written approval by the State Election Commission.

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

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

"**ARTICLE 1A. STATE ELECTION COMMISSION AND SECRETARY OF STATE.**

§3-1A-9. Nonpublic funding sources for election administration and related expenses.

(a) No county commission, clerk of a county commission, municipal governing body, or other public official or body responsible for overseeing, administering, or regulating an election held within the State of West Virginia may directly receive or accept any gift, grant, contribution, or donation of money or anything of value for election administration and related expenses from any private individual, corporation, partnership, trust, or third party, and all such gifts, grants, contributions, or donations may only be accepted, received, expended, distributed, and utilized by the Secretary of State pursuant to the requirements of this section.

(b) There is created in the State Treasury a special revenue revolving fund account known as the Nonpublic Funding for Election Administration Fund which shall be an interest-bearing account. The fund shall consist of all monetary gifts, grants, contributions, and donations from private individuals, corporations, partnerships, trusts, or any third party for election administration and related expenses; and any accrued interest or other return on the monies in the fund. The balance remaining in the fund at the end of each fiscal year shall remain in the fund and not revert to the State General Revenue Fund.

(c) The monies in the Nonpublic Funding for Election Administration Fund shall be used only in the manner and for the

purposes prescribed in this section. Notwithstanding any provision of law to the contrary, monies in the Nonpublic Funding for Election Administration Fund may not be designated or transferred for any purpose other than those set forth in this section.

(d) The monies in the Nonpublic Funding for Election Administration Fund shall be invested pursuant to §12-6-1 *et seq.* of this code.

(e) The Nonpublic Funding for Election Administration Fund shall be administered by the Secretary of State, with the approval of the State Election Commission, in accordance with legislative rules promulgated by the Secretary of State in accordance with §29A-3-1 *et seq.* of this code.

(f) All gifts, grants, contributions, or donations of tangible property or any non-monetary thing of value from private individuals, corporations, partnerships, trusts, or any third party for election administration and related expenses shall be accepted, distributed, and utilized by the Secretary of State, only with the approval of the State Election Commission, in accordance with legislative rules promulgated by the Secretary of State in accordance with §29A-3-1 *et seq.* of this code."

And,

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

H. B. 4097 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-1A-9, relating to nonpublic funding sources for election administration and related expenses; prohibiting public officials and bodies responsible for elections in West Virginia from directly receiving or accepting money or anything of value for election administration and related expenses from private parties; creating Nonpublic Funding for Election Administration Fund for receipt of all gifts of money from private parties for election administration and related expenses; prescribing use of monies in fund; providing for balance to remain in fund; requiring investment of monies in fund; requiring Secretary of State to administer fund with approval

of State Election Commission; requiring Secretary of State with approval of State Election Commission to accept, distribute, and utilize private gifts of tangible property or non-monetary things of value for election administration and related expenses; and authorizing Secretary of State to promulgate legislative rules."

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

A message from the Senate, by

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

Com. Sub. for H. B. 4141, Authorizing the Governor's Committee on Crime, Delinquency and Corrections to promulgate a legislative rule relating to Law Enforcement Training and Certification Standards.

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

Com. Sub. for H. B. 4141 – "A Bill to amend and reenact §64-6-1 et. seq. of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Homeland Security to promulgate legislative rules; authorizing the rules as filed and modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; relating to authorizing the Governor's Committee on Crime, Delinquency and Corrections to promulgate a legislative rule relating to law enforcement training and certification standards; relating to authorizing the Fire Commission to promulgate a legislative rule relating to the Fire Code; relating to authorizing the Fire Commission to promulgate a legislative rule relating to the State Building Code; relating to authorizing the Fire Commission to promulgate a legislative rule relating to volunteer fire department equipment and training grant funding disbursement; relating to authorizing the Fire Commission to promulgate a legislative rule relating to specialized membership; relating to authorizing the Fire Commission to promulgate a legislative rule relating to junior

firefighters; relating to authorizing the Fire Commission to promulgate a legislative rule relating to the certification of fire chiefs; relating to authorizing the Fire Commission to promulgate a legislative rule relating to the use of aqueous film-forming foam (AFFF) for fire training program purposes; relating to authorizing the Fire Marshal to promulgate a legislative rule relating to the regulation of fireworks and related explosive materials; and relating to authorizing the State Police to promulgate a legislative rule relating to career progression."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 437)**, and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4141) passed.

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

On this question, the yeas and nays were taken **(Roll No. 438)**, and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4141) takes effect from its passage.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4380, Relating to transportation of athletic teams.

Delegate Summers moved the House of Delegates concur in the following amendment of the bill by the Senate:

On page three, section thirteen, lines fifty-five through sixty, by striking out all of subdivision (4) and inserting in lieu thereof a new subdivision (4), to read as follows:

"(4) ~~Pursuant~~ Notwithstanding any other provision of this code to the contrary and pursuant to rules established by the state board, the county board may provide for professional or service employees to be certified to drive county board-owned and insured vehicles that have a seating capacity of fewer than ten passengers including the driver. These employees may use the vehicles to transport students for school-sponsored activities, but may not use the vehicles to transport students between school and home. Not more than ~~one~~ two of these vehicles may be used for any school-sponsored activity;";

And,

On page three, section thirteen, lines sixty-one through sixty-three, by striking out all of subdivision (5) and inserting in lieu thereof a new subdivision (5), to read as follows:

"(5) ~~Students~~ Notwithstanding any other provision of this code to the contrary, students may ~~not~~ be transported to a school-sponsored activity in ~~any~~ a county-owned or leased vehicle that does not meet school bus or public transit ratings if the seating capacity of the vehicle is less than 10 passengers including the driver. This section does not prohibit a parent, guardian, or other adult approved in writing by the parent or guardian from transporting ~~ten or fewer~~ students in a privately-owned vehicle;".

And,

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

Com. Sub. for H. B. 4380 – "A Bill to amend and reenact §18-5-13 of the Code of West Virginia, 1931, as amended, relating to the transportation of students and passengers; allowing service employees to be certified to drive certain county board-owned vehicles that professional employees currently can be certified to drive to transport students for school-sponsored activities; requiring the vehicles to be insured; providing that 10 passenger limit of the vehicles includes the driver; increasing the number of these vehicles which may be used for any school-sponsored activity; allowing students to be transported to a school-sponsored activity in a county-owned or leased vehicle that does not meet school bus or public transit ratings if the seating capacity of the vehicle is less than 10 passengers including the driver; allowing a guardian or other adult approved in writing by the parent or guardian to transport students in a privately owned vehicle; removing limit on the number of students that can be transported in a privately owned vehicle by a parent, guardian, or other adult approved in writing by the parent or guardian; and clarifying that busses shall be used to transport nineteen or more passengers."

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

The yeas and nays having been ordered, they were taken **(Roll No. 439)**, and there were—yeas 75, nays 23, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Wamsley, Williams, Young and Zukoff.

Absent and Not Voting: Graves and Hamrick.

So, a majority of the members present having voted in the affirmative, the motion to concur in the amendment of the bill by the Senate prevailed.

The question being on the passage of the bill, as amended by the Senate, the yeas and nays were taken **(Roll No. 440)**, and there were—yeas 69, nays 28, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Booth, Brown, Diserio, Doyle, Evans, Fast, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowan, Rowe, Skaff, Storch, Toney, Walker, Wamsley, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Graves, Hamrick and Thompson.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4380) passed.

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

On this question, the yeas and nays were taken **(Roll No. 441)**, and there were—yeas 72, nays 26, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Booth, Brown, Diserio, Doyle, Evans, Fast, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowan, Rowe, Skaff, Toney, Walker, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Hamrick and Thompson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4380) takes effect from its passage.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4406, To establish the West Virginia Military Hall of Fame.

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

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

"**ARTICLE 5. WEST VIRGINIA MILITARY HALL OF FAME.**

§9A-5-1. West Virginia Military Hall of Fame.

(a)(1) The secretary shall create a West Virginia Military Hall of Fame with the mission to honor veterans of West Virginia who have distinguished themselves on the field of battle and who have also made significant contributions to the state or their communities following their military service. The honorees must:

(A) Have been honorably discharged or separated under honorable conditions from the Armed Forces of the United States and be of good moral character; and

(B) Be natural born citizens of West Virginia; or

(C) Entered into or have been discharged from the Armed Forces in West Virginia; or

(D) Have resided in West Virginia for at least 8 years.

(2) Nominations shall include a nomination form approved by the secretary, a DD214 or other supporting Department of Defense personnel records, or national or state archive records substantiating the nominee's military service, and a copy of any citation received, including any supporting documentation.

(b) In order to be considered, a nominee must have been awarded any of the following during his or her time in service:

(1) Medal of Honor;

(2) Army Distinguished Service Cross;

(3) Navy Cross;

(4) Air Force Cross;

(5) Coast Guard Cross;

(6) Silver Star;

(7) Distinguished Flying Cross;

(8) Bronze Star Medal with 'V' Device;

(9) Air Medal with 'V' Device;

(10) Commendation Medal With 'V' Device;

(11) Joint Service Achievement Medal With 'V' Device; or

(12) Purple Heart.

(c) There shall be created the West Virginia Military Hall of Fame Board consisting of seven members who shall be residents of this state and who have served in and been honorably discharged or separated under honorable conditions from the Armed Forces of the United States. In addition to the seven members of the board, the secretary shall be an *ex officio* member and shall serve as its chair.

(d) Where feasible, members of the board shall be veterans who are active in the veteran community, with consideration given to ensure a diverse representation of service branches in board membership. Additionally, no more than four members shall be from the same congressional district.

(e) The secretary shall promulgate rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement the purpose and mission of the Military Hall of Fame."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 442)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick and Thompson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4406) passed.

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

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

H. B. 4438, Applying current requirements for certain voting systems to be independent and non-networked to all voting systems that seek certification in West Virginia.

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

H. B. 4438 – "A Bill to amend and reenact §3-4A-9 of the Code of West Virginia, 1931, as amended, relating to minimum requirements for electronic voting systems; and requiring electronic voting systems to be independent and nonnetworked with no component connected to the internet."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 443)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick and Thompson.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (H. B. 4438) passed.

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

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

Com. Sub. for H. B. 4499, Relating to making the procurement process more efficient by modifying and updating outdated processes and requirements.

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

Com. Sub. for H. B. 4499 – "A Bill to amend and reenact §5A-3-1, §5A-3-3, §5A-3-4, §5A-3-10, §5A-3-10a, §5A-3-11, §5A-3-12, §5A-3-17, §5A-3-18, §5A-3-29, §5A-3-35, and §5A-3-45 of the Code of West Virginia, 1931, as amended; and to amend and reenact §6D-1-2 of said code, all relating generally to making procurement process more efficient by modifying and updating outdated processes and requirements and encouraging earlier communication with and assistance from experts within Purchasing Division regarding manner and process of procurement of commodities and services by spending units of the state; authorizing open market procurement in emergencies; eliminating outdated references to audits of exempted agencies; allowing director to exempt certain transactions from the requirements of §5A-3-1 *et seq*.; allowing division resources to be made available to exempt spending units; clarifying that grant recipients need not pay registration fees as a vendor; establishing qualifications for state buyer and for director positions; authorizing other procurement methods in lieu of formal competitive bidding when determined to be in best interest of state; granting director discretion to increase delegated procurement limits; making procurement from nonprofit workshops optional; clarifying timing required on rebidding; changing requirement for affidavit verifying that no debt is owed to affirmation; granting director discretion to

increase $2,500 no bid limit; eliminating outdated information reporting requirements for vendor registration; clarifying procurement penalties and inventory submission language; removing surplus fees for inter-agency asset transfers; requiring inter-agency asset transfers be recorded in accordance with governmental accounting standards; shifting time for disclosure of interested party information from date of contract award to before work begins to make procurement process more efficient; and making technical changes throughout."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 444)**, and there were—yeas 97, nays 2, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: McGeehan and Pushkin.

Absent and Not Voting: Hamrick.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4499) passed.

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

On this question, the yeas and nays were taken **(Roll No. 445)**, and there were—yeas 96, nays 3, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: McGeehan, Pushkin and B. Ward.

Absent and Not Voting: Hamrick.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4499) takes effect from its passage.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4562, Relating generally to the suspension and dismissal of school personnel by board and the appeals process.

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

Com. Sub. for H. B. 4562 – "A Bill to amend and reenact §18A-2-8 of the Code of West Virginia, 1931, as amended, relating generally to the suspension and dismissal of school personnel by board and the appeals process; requiring upon commencement of any fact-finding investigation involving conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, the affected employee to be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils; requiring an employee charged with the commission of a felony, a misdemeanor with a rational nexus between the conduct and performance of the employee's job, or child abuse to be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils pending final disposition; and making it the duty of any school principal to report any employee conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, to the county superintendent within 24 hours."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 446)**, and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Zukoff.

Absent and Not Voting: Hamrick.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4562) passed.

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

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

Com. Sub. for H. B. 4583, Clarifying the definition of incapacity so that incarceration in the penal system or detention outside of the United States may not be inferred as resulting in a lack of capacity to execute a power of attorney.

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

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

"**ARTICLE 1. GENERAL PROVISIONS.**

§39B-1-106. Validity of power of attorney.

(a) A power of attorney executed in this state on or after the effective date of this act is valid if its execution complies with ~~section one hundred five of this article.~~ §39B-1-105 of this code.

(b) A power of attorney executed in this state before the effective date of this act is valid if its execution complied with the law of this state ~~as it~~ that existed at the time of execution.

(c) A power of attorney executed other than in this state is valid in this state if, when the power of attorney was executed, the execution complied with:

(1) The law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to §39B-1-107 of this code; or

(2) The requirements for a military power of attorney pursuant to 10 U. S. C. §1044b.

(d) Except as otherwise provided by statute other than this act, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.

(e) Notwithstanding the provisions of §39B-1-102 of this code, the fact that a person is either detained, including being incarcerated in a penal system, or is outside the United States and unable to return, does not create an inference that the person lacks the capacity to execute a power of attorney."

And,

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

Com. Sub. for H. B. 4583 – "A Bill to amend and reenact §39B-1-106 of the Code of West Virginia, 1931, as amended, relating to declaring that neither being detained, including being incarcerated in a penal system, nor being outside the United States and unable to return, creates an inference of incapacity to execute a power of attorney."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 447)**, and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4583) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4596, Relating generally to additional persons qualifying for the provisions of the Law-Enforcement Officers Safety Act.

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

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

"CHAPTER 15A. DEPARTMENT OF HOMELAND SECURITY.

ARTICLE 7. BUREAU OF COMMUNITY CORRECTIONS.

§15A-7-5. Powers and duties of state parole officers.

(a) Each state probation and parole officer employed by the Division of Corrections and Rehabilitation shall:

(1) Investigate all cases referred to him or her for investigation by the Commissioner of Corrections and Rehabilitation and report in writing on the investigation;

(2) Update the standardized risk and needs assessment adopted by the Division of Corrections and Rehabilitation pursuant to §62-12-13(h) of this code for each parolee for whom an assessment has not been conducted for parole by a specialized assessment officer;

(3) Supervise each parolee according to the assessment and supervision standards determined by the Commissioner of Corrections and Rehabilitation;

(4) Furnish to each parolee under his or her supervision a written statement of the conditions of his or her parole together

with a copy of the rules prescribed by the Commissioner of Corrections and Rehabilitation for the supervision of parolees;

(5) Keep informed concerning the conduct and condition of each parolee under his or her supervision and report on the conduct and condition of each parolee in writing as often as required by the Commissioner of Corrections and Rehabilitation;

(6) Use all practicable and suitable methods to aid and encourage a parolee and to bring about improvement in his or her conduct and condition;

(7) Keep detailed records of his or her work;

(8) Keep accurate and complete accounts of, and give receipts for, all money collected from parolees under his or her supervision, and pay over the money to persons designated by a circuit court or the Commissioner of Corrections and Rehabilitation;

(9) Give bond with good security, to be approved by the Commissioner of Corrections and Rehabilitation, in a penalty of not less than $1,000 nor more than $3,000, as determined by the Commissioner of Corrections and Rehabilitation; and

(10) Perform any other duties required by the Commissioner of Corrections and Rehabilitation.

(b) Each probation and parole officer, as described in this article, may, with or without an order or warrant:

(1) Arrest or order confinement of any parolee or probationer under his or her supervision; and

(2) Search a parolee or probationer, or a parolee or probationer's residence or property, under his or her supervision. A probation and parole officer may apply for a search warrant, and execute the search warrant, in connection to a parolee's whereabouts, or a parolee's activities. He or she has all the powers of a notary public, with authority to act anywhere within the state.

(c) Notwithstanding any provision of this article to the contrary, ~~The~~ the Commissioner of Corrections and Rehabilitation may issue a certificate authorizing any state parole officer who has successfully completed the Division of Corrections and Rehabilitation's training program for firearms certification, which is the equivalent of that required of any correctional employee under §15A-3-10 of this code, to carry firearms or concealed weapons. Any parole officer authorized by the Commissioner of Corrections and Rehabilitation may, without a state license, carry firearms and concealed weapons. Each state parole officer, authorized by the Commissioner of Corrections and Rehabilitation, shall carry with him or her a certificate authorizing him or her to carry a firearm or concealed weapon bearing the official signature of the Commissioner of Corrections and Rehabilitation.

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

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

(1) The Division of Corrections and Rehabilitation has a written policy authorizing a state parole officer to carry a concealed firearm for self-defense purposes;

(2) For those state parole officers wishing to avail themselves of the provisions of this subdivision, there shall be in place in the Division of Corrections and Rehabilitation a requirement that those state parole officers must annually qualify in the use of a firearm with standards which are equal to or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(3) The Division of Corrections and Rehabilitation issues a photographic identification and certification card which identify the state parole officers who meet the provisions of this

subdivision, as law-enforcement employees of the Division of Corrections and Rehabilitation pursuant to the provisions of §30-29-12 of this code.

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

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

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

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

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

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

(i) The privileges authorized by the amendments in this section enacted during the 2022, regular session of the Legislature are wholly within the discretion of the Commissioner of Corrections and Rehabilitation.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-1. Definitions.

For the purposes of this article, unless a different meaning clearly appears in the context:

(1) 'Approved law-enforcement training academy' means any training facility which is approved and authorized to conduct law-enforcement training as provided in this article;

(2) 'Chief executive' means the Superintendent of the State Police; the chief Natural Resources police officer of the Division of Natural Resources; the sheriff of any West Virginia county; any administrative deputy appointed by the chief natural resources police officer of the Division of Natural Resources; or the chief of any West Virginia municipal law-enforcement agency;

(3) 'County' means the 55 major political subdivisions of the state;

(4) 'Exempt rank' means any noncommissioned or commissioned rank of sergeant or above;

(5) 'Governor's Committee on Crime, Delinquency, and Correction' or 'Governor's committee' means the Governor's Committee on Crime, Delinquency, and Correction established as a state planning agency pursuant to §15-9-1 of this code;

(6) 'Law-enforcement officer' means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests, and enforce the laws of the state or any county or municipality thereof, other than parking ordinances, and includes those persons employed as campus police officers at state institutions of higher education in accordance with the provisions of §18B-4-5 of this code, persons employed as hospital police officers in accordance with the provisions of §16-5B-19 of this code, and persons employed by the Public Service Commission as motor carrier inspectors and weight-enforcement officers charged with enforcing commercial motor vehicle safety and weight restriction laws, although those institutions and agencies may not be considered law-enforcement agencies. The term also includes those persons employed as county litter control officers charged with enforcing litter laws: *Provided*, That those persons have been trained and certified as law-enforcement officers and that certification is currently active. The term also includes those

persons employed as rangers by resort area districts in accordance with the provisions of §7-25-23 of this code, although no resort area district may be considered a law-enforcement agency: *Provided, however*, That the subject rangers shall pay the tuition and costs of training. As used in this article, the term "law-enforcement officer" does not apply to the chief executive of any West Virginia law-enforcement agency, ~~or~~ nor to any watchman or special natural resources police officer;

(7) 'Law-enforcement official' means the duly appointed chief administrator of a designated law-enforcement agency or a duly authorized designee;

(8) 'Municipality' means any incorporated town or city whose boundaries lie within the geographic boundaries of the state;

(9) 'Pre-certified law-enforcement officer' means a person employed or offered employment by a West Virginia law-enforcement agency prior to his or her initial certification by the subcommittee. This term does not include a person employed or offered employment by a West Virginia law-enforcement agency whose certification status is inactive, suspended, or has been revoked;

(10) 'Subcommittee' or 'law-enforcement professional standards subcommittee' means the subcommittee of the Governor's Committee on Crime, Delinquency, and Correction created by §30-29-2 of this code; and

(11) 'West Virginia law-enforcement agency' means any duly authorized state, county, or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality thereof: *Provided*, That neither the Public Service Commission nor any state institution of higher education, nor any hospital, nor any resort area district is a law-enforcement agency.

CHAPTER 49. CHILD WELFARE.

ARTICLE 4. COURT ACTIONS.

§49-4-719. Juvenile probation officers; appointment; salary; facilities; expenses; duties; powers.

(a)(1) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with the rules of the Supreme Court of Appeals, shall appoint one or more juvenile probation officers and clerical assistants for the circuit. A probation officer or clerical assistant may not be related by blood or marriage to the appointing judge.

(2) The salary for juvenile probation officers and clerical assistants shall be determined and fixed by the Supreme Court of Appeals. All expenses and costs incurred by the juvenile probation officers and their staff shall be paid by the Supreme Court of Appeals in accordance with its rules. The county commission of each county shall provide adequate office facilities for juvenile probation officers and their staff. All equipment and supplies required by juvenile probation officers and their staff shall be provided by the Supreme Court of Appeals.

~~(3) A juvenile probation officer may not be considered a law-enforcement official under this chapter~~

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

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

(1) The Supreme Court of Appeals has a written policy authorizing a state juvenile probation officer to carry a concealed firearm for self-defense purposes;

(2) There shall be in place in the Supreme Court of Appeals a requirement that state juvenile probation officers must annually qualify in the use of a firearm with standards which are equal to or

exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(3) The Supreme Court of Appeals issues a photographic identification and certification card which identify the state juvenile probation officers as law-enforcement employees as that term is contemplated by 18 U.S.C. § 926B.

(d) Any policy instituted pursuant to this subsection includes provisions which:

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

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

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

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

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

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

~~(b)~~ (h)The clerk of a court shall notify, if practicable, the chief probation officer of the county, or his or her designee, when a juvenile is brought before the court or judge for proceedings under this article. When notified, or if the probation officer otherwise

obtains knowledge of such fact, he or she or one of his or her assistants shall:

(1) Make investigation of the case; and

(2) Furnish information and assistance that the court or judge may require.

~~(c)~~(i) (1) The Supreme Court of Appeals may develop a system of community-based juvenile probation sanctions and incentives to be used by probation officers in response to violations of terms and conditions of probation and to award incentives for positive behavior.

(2) The community-based juvenile probation sanctions and incentives may consist of a continuum of responses from the least restrictive to the most restrictive, designed to respond swiftly, proportionally, and consistently to violations of the terms and conditions of probation and to reward compliance therewith.

(3) The purpose of community-based juvenile probation sanctions and incentives is to reduce the amount of resources and time spent by the court addressing probation violations, to reduce the likelihood of a new status or delinquent act, and to encourage and reward positive behavior by the juvenile on probation prior to any attempt to place a juvenile in an out-of-home placement.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that

§61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of this code and §61-7-11a(b)(2)(I) of this code, are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section 22, article III of the Constitution of the State of West Virginia.

(b) (1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: *Provided,* That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds ~~thereof~~ of the facility; or

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring;

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county, or municipal law- enforcement agency;

(B) Any probation officer appointed pursuant to §62-12-5 of this code or state juvenile probation officer appointed pursuant to §49-4-719 ~~chapter 49~~ of this code, in the performance of his or her duties;

(C) Any home confinement supervisor employed by a county commission pursuant to §61-11B-7a of this code in the performance of his or her duties;

(D) A state parole officer appointed pursuant to §15A-7-5 of this code, while in performance of his or her official duties;

~~(C)~~ (E) A retired law-enforcement officer who meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. § 926C(c), carries that firearm in a concealed manner, and has on his or her person official identification in accordance with that act;

~~(D)~~ (F) A person, other than a student of a primary and secondary facility, specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

~~(E)~~ (G) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

~~(F)~~ (H) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

~~(G)~~ (I) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity;

~~(H)~~ (J) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity; or

~~(I)~~ (K) Any person, 21 years old or older, who has a valid concealed handgun permit. That person may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided,* That:

(i) When he or she is occupying the vehicle, the person stores the handgun out of view from persons outside the vehicle; or

(ii) When he or she is not occupying the vehicle, the person stores the handgun out of view from persons outside the vehicle,

the vehicle is locked, and the handgun is in a glove box or other interior compartment, or in a locked trunk, or in a locked container securely fixed to the vehicle.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than $5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the State Police, county sheriff, or municipal police agency.

(d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a court which adjudicates a person who is 14 years of age or older as delinquent for a violation of §61-7-11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's 19th birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's 19th birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward <u>it</u> to the Division of Motor Vehicles.

(e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code, and if the person does not act to appeal the conviction within the time periods described in §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1) of this code shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within 20 days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's 20th birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present

evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

(2) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or shall be confined in jail not more than one year, or both fined and confined.

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

(3) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or shall be confined in jail not more than one year, or both fined and confined.

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than $5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 11B. HOME INCARCERATION ACT.

§62-11B-7b. Home incarceration supervisors deemed qualified law-enforcement officers as that term is used in 18 U.S.C. §926B.

(a) Notwithstanding any other provision of this code, for purposes of this section it is hereby recognized that home incarceration is a form of confinement as that term is used in 18 U.S.C. § 926B.

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

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

(1) The home incarceration program has a written policy authorizing home incarceration supervisors to carry a concealed firearm for self-defense purposes.

(2) There is in place in the home incarceration program a requirement that the home incarceration supervisors must regularly qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies in the county in which the home incarceration supervisors are employed; and

(3) The home incarceration program issues a photographic identification and certification card which identify the home incarceration supervisors as law-enforcement employees of the home incarceration program of §30-29-12 of this code.

(d) Any policy instituted pursuant to subsection (b) of this section shall include provisions which:

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

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

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

(e) Any home incarceration supervisor who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(f) The privileges authorized by the amendments to this section enacted during the 2022, regular session of the Legislature are wholly within the discretion of the supervising authority over the home incarceration supervisors.

(g) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize home incarceration programs wishing to do so to allow home incarceration supervisors to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. § 926B.

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~~ the order of appointment shall be delivered to the Administrative Director of the Supreme Court of Appeals. The order of appointment shall state the annual salary, fixed by the judge and approved by the Supreme Court of Appeals, to be paid to the appointed probation officer or clerical assistants ~~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~~ A judge may not appoint any probation officer, assistant probation officer, or clerical assistant who is related to him or her either by consanguinity or affinity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§62-12-6. Powers and duties of probation officers.

(a) Each probation officer shall:

(1) Investigate all cases which the court refers to the officer for investigation and shall report in writing on each case;

(2) Conduct a standardized risk and needs assessment, using the instrument adopted by the Supreme Court of Appeals of West

Virginia, for any probationer for whom an assessment has not been conducted either prior to placement on probation or by a specialized assessment officer. The results of all standardized risk and needs assessments are confidential;

(3) Supervise the probationer and enforce probation according to assessment and supervision standards adopted by the Supreme Court of Appeals of West Virginia;

(4) Furnish to each person released on probation under the officer's supervision a written statement of the probationer's conditions of probation together with a copy of the rules prescribed by the Supreme Court of Appeals;

(5) Stay informed concerning the conduct and condition of each probationer under the officer's supervision and report on the conduct and condition of each probationer in writing as often as the court requires;

(6) Use all practicable and suitable methods to aid and encourage the probationer to improve his or her conduct and condition;

(7) Perform random drug and alcohol testing on probationers under his or her supervision as directed by the circuit court;

(8) Maintain detailed work records; and

(9) Perform any other duties the court requires.

(b) The probation officer may, with or without an order or warrant, arrest any probationer as provided in section 10 of this article, and arrest any person on supervised release when there is reasonable cause to believe that the person on supervised release has violated a condition of release. A person on supervised release who is arrested shall be brought before the court for a prompt and summary hearing.

(c) Notwithstanding any provision of this code to the contrary:

(1) Any probation officer appointed on or after July 1, 2002, may carry handguns in the course of the officer's official duties after meeting specialized qualifications established by the Governor's Committee on Crime, Delinquency and Correction. The qualifications shall include the successful completion of handgun training, which is comparable to the handgun training provided to law-enforcement officers by the State Police and includes a minimum of four hours' training in handgun safety.

(2) Probation officers may only carry handguns in the course of their official duties after meeting the specialized qualifications set forth in subdivision (1) of this subsection.

~~(3) Nothing in this subsection includes probation officers within the meaning of law enforcement officers as defined in section one, article twenty-nine, chapter thirty of this code.~~

(d) The Supreme Court of Appeals of West Virginia may adopt a standardized risk and needs assessment with risk cut-off scores for use by probation officers, taking into consideration the assessment instrument adopted by the Division of Corrections and Rehabilitation under subsection (h), section 13 of this article and the responsibility of the Division of Justice and Community Services to evaluate the use of the standardized risk and needs assessment. The results of any standardized risk and needs assessment are confidential."

And,

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

Com. Sub. for H. B. 4596 – "A Bill to amend and reenact §15A-7-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-29-1 of said code; to amend and reenact §49-4-719 of said code; to amend and reenact §61-7-11a of said code; to amend said code by adding thereto a new section designated §62-11B-7b; and to amend and reenact §62-12-5 and §62-12-6 of said code all relating generally to recognizing additional professions qualifying for protections under the Law-Enforcement Officers Safety Act; clarifying that home

incarceration supervisors, state adult probation officers, state juvenile probation officers, and state parole officers are, by virtue of their duties, qualified law enforcement officers who may carry a concealed firearm nationwide, as authorized by the federal Law-Enforcement Officers Safety Act; exempting certain persons from prohibition for carrying deadly weapons on the premises of educational facilities; providing the statutory authority to give home incarceration supervisors, state probation officers, juvenile probation officers, and parole officers the option to carry firearms pursuant to applicable federal law; requiring annual firearm training pursuant to federal law; removing inconsistent language relating to probation officers; clarifying that supervisory entities retain sole discretion as to authorizing participation of qualified officers in such program; providing for training to enable home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers to fully qualify as law-enforcement officers if they have not previously done so; setting forth the duties of supervising authorities as to participation of home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers, and removing a duplicative reference to probation officers in code."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 448)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick and Young.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4596) passed.

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

A message from the Senate, by

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

H. B. 4647, Relating to the Board of Funeral Service Examiners.

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

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

"**ARTICLE 6. BOARD OF FUNERAL SERVICE EXAMINERS.**

§30-6-3. Definitions.

As used in this article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

'Alkaline hydrolysis' means the reduction of a dead human body to essential elements through a water-based dissolution process using alkaline chemicals, heat, agitation, and pressure to accelerate natural decomposition; the processing of hydrolyzed remains after removal from the alkaline hydrolysis vessel; placement of the processed remains in a hydrolyzed remains container; and release of the hydrolyzed remains to an appropriate party. Alkaline hydrolysis is a form of final disposition.

~~(a)~~ 'Apprentice' means a person who is preparing to become a licensed funeral director or a funeral service licensee ~~and embalmer~~ and is learning the practice of embalming, funeral directing, or cremation under the direct supervision and personal instruction of a duly licensed ~~embalmer or funeral director~~ funeral service licensee.

~~(b)~~ 'Authorized representative' means a person legally authorized or entitled to order the cremation or burial of the deceased, as established by rule. An authorized representative may include in the following order of precedence:

~~(1)~~ (a) The deceased, who has expressed his or her wishes regarding the disposal of their remains through a last will and testament, an advance directive, or preneed funeral contract, as defined in §45-14-2 of this code;

~~(2)~~ (b) The surviving spouse of the deceased, unless a petition to dissolve the marriage was pending at the time of decedent's death;

~~(3)~~ (c) An individual previously designated by the deceased as the person with the right to control disposition of the deceased's remains in a writing signed and notarized by the deceased: *Provided,* That no person may be designated to serve in such capacity for more than one nonrelative at any one time;

~~(4)~~ (d) The deceased's next of kin;

~~(5)~~ (e) A court order;

~~(6)~~ (f) A public official who is charged with arranging the final disposition of an indigent deceased; or

~~(7)~~ (g) A representative of an institution who is charged with arranging the final disposition of a deceased who donated his or her body to science.

~~(c)~~ 'Board' means the West Virginia Board of Funeral Service Examiners.

~~(d)~~ 'Certificate' means a certification by the board to be a crematory operator.

~~(e)~~ 'Courtesy card holder' means a person who only practices funeral directing periodically in West Virginia and is a licensed embalmer and funeral director in a state which borders West Virginia.

~~(f)~~ 'Cremated remains' or 'cremains' means all human remains, including foreign matter cremated with the human, recovered after the completion of cremation.

~~(g)~~ 'Cremation' means the mechanical or thermal process whereby a dead human body is reduced to ashes and bone fragments and then further reduced by additional pulverization, burning, or re-cremating when necessary.

~~(h)~~ 'Crematory' means a licensed place of business where a deceased human body is reduced to ashes and bone fragments. ~~and includes a crematory that stands alone or is part of or associated with a funeral establishment~~

~~(i)~~ 'Crematory operator' means a person certified by the board to operate a crematory.

~~(j)~~ 'Crematory operator in charge' means a certified crematory operator who accepts responsibility for the operation of a crematory.

~~(k)~~ 'Deceased' means a dead human being for which a death certificate is required.

~~(l)~~ 'Embalmer' means a person licensed to practice embalming.

~~(m)~~ 'Embalming' means the practice of introducing chemical substances, fluids, or gases used for the purpose of preservation or disinfection into the vascular system or hollow organs of a dead human body by arterial or hypodermic injection for the restoration of the physical appearance of a deceased.

~~(n)~~ 'Funeral' means a service, ceremony, or rites performed for the deceased with a body present.

~~(o)~~ 'Funeral directing' means the business of engaging in the following:

~~(1)~~ (a) The shelter, custody, or care of a deceased;

~~(2) The preparation of a deceased for burial or other disposition~~

~~(3)~~ (b) The arranging or supervising of a funeral or memorial service for a deceased; and

~~(4)~~ (c) The maintenance of a funeral establishment for the preparation, care, or disposition of a deceased.

~~(p)~~ 'Funeral director' means a person licensed to practice funeral directing.

~~(q)~~ 'Funeral establishment' means a licensed place of business devoted to the care, preparation, and arrangements for the transporting, embalming, funeral, burial, or other disposition of a deceased. A funeral establishment can include a licensed crematory.

~~(r)~~ 'Funeral service licensee' means a person licensed after July 1, 2003, to practice embalming and funeral directing.

~~(s)~~ 'License' means a license, which is not transferable or assignable, to:

~~(1)~~ (a) Practice embalming and funeral directing; and,

~~(2)~~ (b) Operate a crematory or a funeral establishment.

~~(t)~~ "Licensee" means a person holding a license issued under the provisions of this article.

~~(u)~~ 'Licensee in charge' means a licensed embalmer and funeral director who accepts responsibility for the operation of a funeral establishment.

~~(v)~~ 'Memorial service' means a service, ceremony, or rites performed for the deceased without a body present.

~~(w)~~ 'Mortuary' means a licensed place of business devoted solely to the shelter, care, and embalming of the deceased.

~~(x)~~ 'Person' means an individual, partnership, association, corporation, not-for-profit organization, or any other organization.

~~(y)~~ 'Registration' means a registration issued by the board to be an apprentice to learn the practice of embalming, funeral directing, or cremation.

~~(z)~~ 'State' means the State of West Virginia.

§30-6-8. Embalmer license requirements.

~~(a)~~ The board shall issue a license to practice embalming to an applicant who:

~~(1)~~ (a) ~~Is of good moral character~~ Is free of a felony conviction bearing a rational nexus to the profession pursuant to §30-1-24 of this code;

~~(2)~~ (b) Is 18 years of age or over;

~~(3)~~ (c) Is a citizen of the United States or is eligible for employment in the United States;

~~(4)~~ (d) Has a high school diploma or its equivalent;

~~(5)~~ (e) Has completed one of the following education requirements, as evidenced by a transcript submitted to the board for evaluation:

~~(A) (i)~~ (1)(A) Has an associate degree from an accredited college or university; or

~~(ii)~~ (2) Has successfully completed at least 60 semester hours or 90 quarter hours of academic work in an accredited college or university toward a baccalaureate degree with a declared major field of study; and

~~(iii)~~ (3) Has graduated from a school of mortuary science, accredited by the American Board of Funeral Service Education, Inc., which requires as a prerequisite to graduation the completion of a course of study of not less than 12 months; or

(B) Has a bachelor degree in mortuary science from an accredited college or university;

~~(6)~~ (f) Has completed a one-year apprenticeship, under the supervision of a licensed embalmer and funeral director actively and lawfully engaged in the practice of embalming and funeral directing in this state, which apprenticeship consisted of:

~~(A)~~ (1) Diligent attention to the work in the course of regular and steady employment and not as a side issue to another employment; and

~~(B)~~ (2) The apprentice taking an active part in:

~~(i)~~ (A) The operation of embalming not less than 35 dead human bodies; and

~~(ii)~~ (B) Conducting not less than 35 funeral services;

~~(7)~~ (g) Passes, with an average score of not less than 75 percent, the following examinations:

~~(A)~~ (1) The ~~National Conference of Funeral Services~~ International Conference of Funeral Service Examining Boards examination at a testing site provided by the national conference, which passage is a condition precedent to taking the state law examination;

~~(B) The state law examination administered by the board, which examination must be offered at least twice each year~~

~~(B)~~ (2) The West Virginia Laws, Rules, and Regulations Examination, administered by the International Conference of Funeral Service Examining Boards; and

~~(C)~~ (3) Any other examination required by the board; and

~~(8)~~ (h) Has paid all the appropriate fees.

~~(b)~~ A license to practice embalming issued by the board prior to July 1, 2012, shall for all purposes be considered a license issued under this section: *Provided,* That a person holding a license issued prior to July 1, 2012, must renew the license pursuant to the provisions of this article.

§30-6-9. Funeral director license requirements.

(a) The board shall issue a license to practice funeral directing to an applicant who meets the following requirements:

~~(1) Holds an embalmer's license issued by the board; and~~

(1) Completed a bachelor's degree from an accredited institution; and

(2) Completed a two-year apprenticeship under the supervision of a licensee in charge or an active licensed funeral director; and

~~(2)~~ (3) Has paid all the appropriate fees.

(b) The two-year apprenticeship must consist of the following work:

(1) Diligent attention to the work in the course, or regular and steady employment, and not as a side issue to another employment;

(2) Conducting not less than 35 disposition arrangements for individuals;

(3) Conducting not less than 35 funeral and/or memorial services; and

(4) Passes with an average score of not less than 75 percent, the West Virginia Laws, Rules, and Regulations Examination.

~~(b)~~ (c) A license to practice funeral directing issued by the board prior to July 1, 2002, shall for all purposes be considered a license issued under this section: *Provided,* That a person holding a license issued prior to July 1, ~~2002~~ 2022, must renew the license pursuant to the provisions of this article.

§30-6-15. Continuing education.

~~(a) The board shall conduct annually a school of instruction to apprize funeral directors and embalmers of the most recent scientific knowledge and developments affecting their profession. This school shall qualify as continuing education and shall fulfill as many continuing education required hours as the board specifies. Qualified lecturers and demonstrators may be employed by the board for this purpose. The board shall give notice of the time and place at which the school will be held for all licensed funeral directors and embalmers: *Provided,* That the location of any school~~

~~of continuing education shall accommodate the geographic diversity of the embalmers and funeral directors of this state~~

~~(b)~~ (a) Hours of continuing education may be obtained by attending and participating in board-approved programs, meetings, seminars, or activities. It is the responsibility of each licensee to finance his or her costs of continuing education.

~~(c)~~ (b) Compliance with the requirements of continuing education, as specified by the board, is a prerequisite for license renewal.

§30-6-16. Inspector and inspection requirements.

(a) All inspectors employed by the board to inspect funeral establishments and crematories, pursuant to the provisions of this article, shall have a West Virginia embalmer's license and a West Virginia funeral director's license.

(b) Each inspector shall inspect a specific region, as designated by the board. Any person being employed as an inspector is prohibited from inspecting in the region in which he or she practices. If there is only one inspector, a board member, who is not from the region where the inspector practices, is authorized to inspect the facilities in the region where the inspector practices.

(c) All inspections shall be conducted in a manner so as not to interfere with the conduct of business within the funeral establishment or crematory. The board has the authority to enter, at all reasonable hours, for the purpose of inspecting the premises in which the business of embalming, funeral directing, or cremating is conducted.

(d) All of an inspector's expenses, per diem, and compensation shall be paid out of the receipts of the board, but the allowances shall at no time exceed the receipts of the board.

(e) The board is authorized to set fees for inspections: *Provided,* That there shall be no fee for ~~an annual~~ a biennial inspection, based on the funeral establishment's renewal date.

§30-6-17. Apprenticeship.

(a) After ~~January 1, 2003~~ July 1, 2022, the board shall issue a registration to be an apprentice ~~funeral director or apprentice embalmer~~ funeral service licensee to an applicant who meets the following requirements:

(1) ~~Is of good moral character and temperate habits~~ Is free of a felony conviction bearing a rational nexus to the profession pursuant to §30-1-24 of this code;

(2) Is 18 years of age or over;

(3) ~~A~~ Is a citizen of the United States or be eligible for employment in the United States;

(4) Has a high school diploma or its equivalent;

~~(5) Has completed one of the education requirements for an embalmer's license, as set out in subdivision (5), subsection (a), section eight of this article;~~

~~(6) Is not attending school and will not be attending school during the apprenticeship period;~~

(5) The required 60 semester hours or 90 quarter hours of college or university credits and mortuary school can be completed prior to, during, or after the apprenticeship; and

~~(7)~~ (6) Has paid the appropriate fees.

(b) Any person that commences an apprenticeship prior to January 1, 2003, may continue to serve such apprenticeship and is not subject to the requirements set forth in this section, but is subject to board approval.

(c) The board may set the requirements for an apprenticeship, including the manner in which it shall be served and the length of time, which shall not be more than one year for a funeral service licensee and shall not be more than two years for a funeral director.

(d) No licensed funeral director or licensed embalmer shall be permitted to register or have registered more than five apprentices under his or her license at the same time.

§30-6-19. Funeral establishment to be managed by a licensee in charge; license displayed.

(a) Every separate funeral establishment in this state offering the services set forth in this article shall be operated under the supervision and management of a licensee in charge who is licensed as a funeral director in this state who shall hold an active:

(1) Funeral Service licensee's license in the State of West Virginia;

(2) Embalmers license in the State of West Virginia;

(3) Crematory Operator certificate in the State of West Virginia; and

(4) Pre-Need license in the State of West Virginia.

(b) Each separate funeral establishment in this state offering the services set forth in this article shall have its own license, which license shall be prominently displayed within the funeral establishment.

(c) All funeral establishments shall display in all advertising the name of the licensee in charge of the establishment.

(d) All funeral establishments shall prominently display within the funeral establishment the license of the licensee in charge.

(e) A licensee in charge shall supervise each separate establishment.

(f) Effective July 1, 2022, the board shall allow up to two years to complete the requirements under this section for the licensee in charge.

§30-6-20. Crematory license requirements.

(a) Every crematory shall be licensed in West Virginia. The board shall issue a crematory license to an applicant who meets the following requirements:

(1) The place of business has been approved by the board as having met all the requirements and qualifications to be a crematory as are required by this article;

(2) The crematory conforms with all local building codes;

(3) The crematory meets all applicable environmental standards;

(4) Notify the board, in writing, at least 30 days before the proposed opening date so there can be an inspection of the crematory;

(5) Show proof that the crematory passed the inspection;

(6) Have a certified crematory operator in charge;

(7) Pay all the appropriate fees; and

(8) Complete such other requirements as specified by the board.

(b) All crematory licenses must be renewed biennially, by a staggered schedule, upon or before July 1, and pay a renewal fee.

(c) Each crematory license shall be valid for only one crematory to be located at a specific street address. There shall be a separate license issued and a separate fee assessed to operate additional crematories by the same applicant.

(d) A holder of a crematory license that fails to pay fees for either the principal crematory or additional crematories by July 1, of the renewal year is subject to a penalty, a reinstatement fee for each crematory, and the required renewal fee.

(e) The holder of a crematory license who ceases to operate the crematory at the location specified in the application shall, within 20 days thereafter, surrender the crematory license to the board and

the license shall be canceled by the board. In the event of the death of an individual who was the holder of a crematory license, it shall be the duty of the holder's personal representative to surrender the crematory license within 120 days of qualifying as the personal representative.

(f) A holder of a certificate to operate a crematory whose certificate to operate has been revoked or a holder of a crematory license whose license has been revoked shall not operate, either directly or indirectly, or hold any interest in any crematory or funeral establishment: *Provided,* That a holder of a crematory license whose license has been revoked is not prohibited from leasing any property owned by him or her for use as a crematory, so long as the property owner does not participate in the control or profit of the crematory except as lessor of the premises for a fixed rental not dependent upon earnings.

(g) Failure to comply with any of these provisions shall be grounds for revocation of a crematory license.

(h) All persons that operate crematories shall by January 1, 2003, register with the board. By July 1, 2003, all persons that operate crematories shall obtain a crematory license, pursuant to the provisions of this section.

(i) All crematory licenses must be renewed biennially upon or before July 1.

(j) After July 1, 2003, all licensed crematories must have a certified crematory operator in charge.

(k) If a certified crematory operator in charge ceases to be employed by a crematory, then the holder of the crematory license shall notify the board within 30 days of the cessation. Within 30 days after such notification, the holder of a crematory license shall execute a new application for a crematory license specifying the name of the new certified crematory operator in charge. A crematory is prohibited from operating more than 30 days without a certified crematory operator in charge.

§30-6-22b. Certification for alkaline hydrolysis of human remains.

(a) No person, funeral establishment, corporation, partnership, joint venture, voluntary organization, or other entity shall hydrolyze human remains without first obtaining a certificate from the board.

(b) Except as otherwise provided by this article, a certificate for the hydrolysis of human remains shall have the same requirements and fees as for the licensing of crematories under this article. The alkaline hydrolysis of human remains shall be conducted in compliance with all requirements for cremation.

(c) The board shall have the same powers to regulate, enforce, discipline, and inspect alkaline hydrolysis certificate holders and the practice of alkaline hydrolysis that have been granted under this article for the regulation, enforcement, discipline, and inspection of crematories and the practice of cremation.

(d) Any solid remains or residue remaining after alkaline hydrolysis shall be treated and disposed of as cremated remains under this article. Disposal of liquid waste shall be subject to all applicable health and environmental laws and regulations.

(e) Human remains shall be hydrolyzed in an alkaline hydrolysis container and may not be required to be hydrolyzed in a casket.

(f) Unless specified otherwise by the manufacturer of the equipment used for alkaline hydrolysis, human remains may be hydrolyzed without first removing a pacemaker or defibrillator. Any other potentially hazardous implanted device or material shall be handled in accordance with applicable state laws and regulations.

(g) The board shall promulgate legislative rules necessary to define the education and requirements for the certification to perform alkaline hydrolysis."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 449)**, and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4647) passed.

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

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

Com. Sub. for H. B. 4785, Relating to judicial vacancies.

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

Com. Sub. for H. B. 4785 – "A Bill to amend and reenact §3-10-3 of the Code of West Virginia, 1931, as amended, relating to procedures for filling judicial vacancies; providing that a vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, or judge of a family court is filled by the Governor of the state by appointment if the unexpired term is for a period of not more than three years; clarifying that the amendment shall apply to judicial vacancies existing at the date of passage; clarifying timing of election to fill judicial vacancies before the close of candidate filing for the primary election; and clarifying timing of election to fill judicial vacancies after the close of the candidate filing for the primary election through 84 days before the general election."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 450)**, and there were—yeas 76, nays 23, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Gearheart, Hansen, Hornbuckle, J. Jeffries, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Hamrick.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4785) passed.

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

On this question, the yeas and nays were taken **(Roll No. 451)**, and there were—yeas 79, nays 19, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Hansen, Hornbuckle, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Hamrick and Pack.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4785) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4797, To create an EV Infrastructure Deployment Plan for West Virginia that describes how our state intends to use its share of NEVI Formula Program funds.

Resolutions Introduced

Delegates Howell, Hamrick, Crouse, Barnhart, Mallow, Tully, Forsht, Kessinger, G. Ward, Hott and Ferrell offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 19 - "Urging Congress and the President to pass federal legislation to speed up the environmental permitting process on new wells and mines."

Whereas, West Virginia has an abundance of natural resources produced within our state borders; and

Whereas, The dependence of the United States on Russian oil is disadvantageous from both a security and economic standpoint; and

Whereas, West Virginia stands ready to produce more natural gas and coal to ship to Europe, so that Europe can end its dependence on Russian imports; and

Whereas, West Virginia asks Congress and the President to pass federal legislation to speed up the environmental permitting process on new wells and mines, so that this can happen as quickly as possible; therefore, be it

Resolved by the House of Delegates:

That Congress and the President are urged to pass federal legislation to speed up the environmental permitting process on new wells and mines; and, be it

Further Resolved, That a copy of this resolution be sent to the European Union, the United States Congress, and the President of the United States.

Delegate Householder offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 100 - "Requesting the Joint Committee on Government and Finance study the tax rates on ready to drink beverages (RTD)."

Whereas, The tax on ready to drink beverages made with distilled spirits is approximately $1.25 per gallon, far greater than the tax on other ready to drink beverages, such as those that are cider based, which are taxed at the approximate rate of $0.226 per gallon; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the disparity of taxes on all ready to drink beverages, regardless of their base, and the feasibility of a more equitable taxation of these products; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Regular Session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegate Rohrbach offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 101 - "Urging Congress to pass 'Share the Savings' legislation."

Whereas, The retail price of prescription drugs remains a serious challenge for many West Virginians, who depend upon affordable medications to protect and improve their health and well-being; and

Whereas, West Virginia, in 2021, became the first state in the union to create a law – known as "Share the Savings" legislation – requiring pharmacy benefit managers and health insurers to pass negotiated discounts and rebates directly to patients at the pharmacy counter; and

Whereas, This law should result in West Virginia patients on commercial insurance saving significantly on the cost of their medications once the program begins in 2022; and

Whereas, National organizations have recognized the unique solution offered by the West Virginia Legislature to address prescription drug costs for state residents on commercial insurance; and

Whereas, State officials would like to see this same level of savings extended to West Virginia seniors but cannot as the federal Medicare program is within the purview of Congress, thus leaving West Virginia seniors unprotected from high drug prices; and

Whereas, The U.S. Senate has, to date, delayed regulatory and legislative actions – including a bill co-sponsored by West Virginia U.S. Senator Shelley Moore Capito – that would lower drug prices at the pharmacy counter; therefore, be it,

Resolved by the Legislature of West Virginia:

That the West Virginia Legislature calls upon West Virginia's Congressional delegation to advocate swift and effective congressional action to extend the same level of consumer protections enacted in West Virginia's "Share the Savings" law to consumers enrolled in Medicare prescription drug plans.

Motions

Delegate Summers asked and obtained unanimous consent that, for the remainder of the session, members of Conference Committees be permitted to vote on any question or issue before the House which they have missed as a direct result of their duties on Conference Committees, provided that such members notify the Clerk of the House in writing as to how they wish to vote, before

the daily Journal is published, and that any such vote will not change the outcome on any question.

Unfinished Business

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

Com. Sub. for S. C. R. 29, Nitro WW I Memorial Bridge,

S. C. R. 37, Harrison County Veterans Memorial Bridge,

Com. Sub. for S. C. R. 38, Cox Brothers' Veteran Memorial Bridge,

Com. Sub. for S. C. R. 45, US Army CPL John D. Doyle, Sr. Memorial Road,

H. C. R. 97, U.S. Army Air Corps Private Albert J. Sutphin Memorial Highway,

And,

H. C. R. 99, Lt. Col. Mitchell M. Mickel Memorial Bridge.

Third Reading

S. B. 135, Relating to acquisition and disposition of property by urban development authority; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 452)**, and there were—yeas 95, nays 2, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Hornbuckle and McGeehan.

Absent and Not Voting: Hamrick, Kessinger and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 135) passed.

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

S. B. 440, Establishing Uniform Commercial Real Estate Receivership Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 453)**, and there were—yeas 96, nays 2, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Jennings and Miller.

Absent and Not Voting: Hamrick and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 440) passed.

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

Com. Sub. for S. B. 470, Relating generally to health care decisions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 454)**, and there were—yeas 90, nays 6, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Doyle, Hansen, Mazzocchi, Pushkin, Rowe and Walker.

Absent and Not Voting: Ferrell, Fleischauer, Hamrick and Householder.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 470) passed.

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

Com. Sub. for S. B. 508, Requiring certain attire for deer hunters with muzzleloaders; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 455)**, and there were—yeas 82, nays 15, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Barrett, Diserio, Evans, Fluharty, Hardy, Horst, J. Jeffries, Kimes, Miller, Paynter, Pritt, Steele, Thompson, Worrell and Young.

Absent and Not Voting: Ferrell, Fleischauer and Hamrick.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 508) passed.

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

Com. Sub. for S. B. 535, Providing for revocation of school personnel certification or licensure in certain circumstances; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 456)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Fleischauer and Hamrick.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 535) passed.

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

S. B. 591, Relating to process for filling vacancies in state Legislature; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 457)**, and there were—yeas 92, nays 1, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Paynter.

Absent and Not Voting: Bridges, Clark, Dean, Fleischauer, Hamrick, Jennings and Longanacre.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 591) passed.

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

Com. Sub. for S. B. 595, Relating to Dangerousness Assessment Advisory Board; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 458)**, and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Fluharty.

Absent and Not Voting: Bridges, Conley, Fleischauer, Hamrick and Wamsley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 595) passed.

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

On this question, the yeas and nays were taken **(Roll No. 459)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Conley, Fleischauer, Hamrick, Steele and Wamsley.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 595) takes effect from its passage.

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

Com. Sub. for S. B. 616, Relating to confidentiality of court files and law-enforcement records of certain enumerated offenses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 460)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Fleischauer, Hamrick, Pinson, Steele and Wamsley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 616) passed.

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

Com. Sub. for S. B. 694, Relating to oil and gas conservation; on third reading, coming up in regular order, was read a third time.

Speaker Pro Tempore Howell in the Chair

Delegates Fast and G. Ward requested to be excused from voting under the provisions of House Rule 49.

The Speaker Pro Tempore ruled that the Delegates belong to a class possibly to be affected and refused to excuse the Members from voting on the bill.

Mr. Speaker, Delegate Hanshaw in the Chair

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 461)**, and there were, including pairs—yeas 55, nays 44, absent and not voting 1, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Westfall Nay: Gearheart

Yea: Smith Nay: Rowe

Nays: Barach, Boggs, Booth, Bridges, Brown, Crouse, Dean, Diserio, Doyle, Evans, Fast, Fleischauer, Fluharty, Griffith, Hansen, Hardy, Holstein, Hornbuckle, Howell, J. Jeffries, Jennings, Kimble, Longanacre, Lovejoy, McGeehan, Nestor, Paynter, Pethtel, Phillips, Pritt, Pushkin, Skaff, Storch, Summers, Sypolt, Thompson, Toney, Walker, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Hamrick.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 694) passed.

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

Com. Sub. for S. B. 694 – "A Bill to amend and reenact §22C-9-1, §22C-9-2, §22C-9-3, §22C-9-4, and §22C-9-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22C-9-7a, all relating to oil and gas conservation; expanding the membership of the Oil and

Gas Conservation Commission; expanding the jurisdiction of the Oil and Gas Conservation Commission; expanding duties of the commission to include unitization of shallow and deep horizontal wells; amending and providing further declarations of public policy and legislative findings; defining terms; providing for conditions of applicability of the statute; establishing a horizontal well unit application process; requiring certain conditions be met prior to filing and approval of an application including defining percentages of interests of landowners and operators to establish unit control; requiring good faith negotiations by operators; providing for hearings on applications; setting out factors to be considered in the hearing and documents to be filed before a hearing; providing for notice and publication at various stages of the process; defining interested parties and their involvement in the hearing processes; providing for standards of review and factors to be considered by the commission; providing for maximum unit sizes with limited exceptions; providing for an independent third party review of certain information and reporting of the same to the commission; providing for confidentiality of certain information; setting forth time frames and time limits; providing for a horizontal well unit orders and required contents of the orders; defining order terms; providing limitations on surface usage above non-consenting mineral owners; providing for payment terms for leased mineral interest owners without unitization clauses; providing for payment term options for non-leased mineral interest owners; providing payment term options for nonconsenting operators; allowing for modifications of the horizontal well unit order under specified conditions; providing for compensation for unknown and unlocatable mineral interest owners and defining the same; establishing a process using the courts for surface owners to acquire the mineral interests and funds held by the operator of unknown or unlocatable interest owners after a specified time period, notices, and court proceedings; providing applicability of the existing and new statutory sections for deep wells based on the effective date; providing a severability clause; and establishing and modifying rulemaking authority."

Delegate Fluharty moved to amend the title of the bill to read as follows

Com. Sub. for S. B. 694 – "A Bill to amend and reenact §22C-9-1, §22C-9-2, §22C-9-3, §22C-9-4, and §22C-9-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22C-9-7a, all relating to forced pooling of oil and gas interests; expanding the membership of the Oil and Gas Conservation Commission; expanding the jurisdiction of the Oil and Gas Conservation Commission; expanding duties of the commission to include unitization of shallow and deep horizontal wells; amending and providing further declarations of public policy and legislative findings; defining terms; providing for conditions of applicability of the statute; establishing a horizontal well unit application process; requiring certain conditions be met prior to filing and approval of an application including defining percentages of interests of landowners and operators to establish unit control; requiring good faith negotiations by operators; providing for hearings on applications; setting out factors to be considered in the hearing and documents to be filed before a hearing; providing for notice and publication at various stages of the process; defining interested parties and their involvement in the hearing processes; providing for standards of review and factors to be considered by the commission; providing for maximum unit sizes with limited exceptions; providing for an independent third party review of certain information and reporting of the same to the commission; providing for confidentiality of certain information; setting forth time frames and time limits; providing for a horizontal well unit orders and required contents of the orders; defining order terms; providing limitations on surface usage above non-consenting mineral owners; providing for payment terms for leased mineral interest owners without unitization clauses; providing for payment term options for non-leased mineral interest owners; providing payment term options for nonconsenting operators; allowing for modifications of the horizontal well unit order under specified conditions; providing for compensation for unknown and unlocatable mineral interest owners and defining the same; establishing a process using the courts for surface owners to acquire the mineral interests and funds held by the operator of unknown or unlocatable interest owners after a specified time period, notices, and court proceedings; providing applicability of

the existing and new statutory sections for deep wells based on the effective date; providing a severability clause; and establishing and modifying rulemaking authority."

On the question of adoption of the title amendment offered by Delegate Fluharty, the same was put and did not prevail.

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

Second Reading

S. B. 1, Creating Mining Mutual Insurance Company; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 5, Creating WV Unmanned Aircraft Systems Advisory Council; on second reading, coming up in regular order, was read a second time

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

"**CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

ARTICLE 2K. PROMOTING PUBLIC-USE VERTIPORTS ACT.

§5B-2K-1. Policy.

It is the policy of this State to promote the development of a network of vertiports that will provide equitable access to citizens of this State who may benefit from advanced air mobility operations for cargo and passenger service, and to avoid any vertiport monopolization or discrimination, by: (i) funding the planning for and construction of public-use vertiports, as the State may appropriate; (ii) encouraging local zoning and other land use authorities to ensure an adequate number and a varied location of vertiports to serve citizens throughout the State; and (iii) promoting competition and equity of access by prohibiting the grant of an exclusive right to one or more vertiport owners and operators or to vertiport operators at an one or more vertiports.

§5B-2K-2. Applicability.

This Act applies to any vertiport that is available for public use by any advanced air mobility operator authorized by the United States Department of Transportation or Federal Aviation Administration to engage in passenger and/or cargo services in scheduled or non-scheduled service in or affecting interstate commerce.

§5B-2K-3. Vertiport Safety.

(a) *Vertiport Design* – Each vertiport subject to this Act shall comply with any Federal Aviation Administration published rule or Advisory Circular containing standards for vertiport design and performance characteristics.

(b) *Vertiport Layout Plan* – Each vertiport subject to this Act shall submit a vertiport layout plan to the Administrator of the Federal Aviation Administration in the form and manner determined by the Administrator, and no operations may be conducted at the vertiport until such layout plan is approved.

§5B-2K-4. Exclusionary and Discriminatory Zoning Prohibited.

A political subdivision of this State shall not exercise its zoning and land use authority to grant or permit an exclusive right

to one or more vertiport owners or operators and shall use such authority to promote reasonable access to advanced air mobility operators at public-use vertiports within the jurisdiction of the subdivision.

§5B-2K-5. Harmonization.

The provisions of this Act are intended to supplement any provision of Federal law pertaining to the design, construction, operations, or maintenance of a vertiport designed or constructed with a grant under Chapter 471 of title 49, United States Code, and any provision of law found in conflict with or otherwise preempted by Federal law shall be null and void, without invalidating any other provision of this Act.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 16. USE OF UNMANNED AIRCRAFT SYSTEMS.

§61-16-3. Counties, municipalities, cities and towns prohibited from enacting restrictions upon advanced air mobility aircraft.

(a) Except as authorized by law, a county, city, village, or township shall not enact or adopt an ordinance, policy, or rule that relates to the ownership or operation of an advanced air mobility aircraft or advanced air mobility system and shall not otherwise engage in the regulation or ownership of an advanced air mobility aircraft or advanced air mobility system. Any ordinance, policy, or rule that violates this subsection, whether enacted or adopted by the county, municipality, city or town before or after the effective date of this section, is void.

(b) As used in this section:

(1) "advanced air mobility aircraft" is an aircraft used by an advanced air mobility system.

(2) "advanced air mobility system" means a system that transports people and property by air between points in the United States using aircraft, including electric aircraft and electric vertical

takeoff and landing aircraft, in both controlled and uncontrolled airspace.

The bill was then ordered to third reading.

Com. Sub. for S. B. 6, Establishing common law "veil piercing" claims not be used to impose personal liability; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page 1, section 303(a), line 5, by inserting the following language after "manager": "nor for fines, fees or penalties individually assessed against another member or manager for acts unrelated to the business of the limited liability company";

And,

On page 2, section 303(c), Lines 26-27, by striking subparagraph (c)(5) in its entirety.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page 2, section 303(d), line 33, by striking "$50,000 per person and $100,000 per occurrence" and inserting in place thereof "$100,000 liability insurance".

The bill was then ordered to third reading.

Com. Sub. for S. B. 25, Updating provisions of Medical Professional Liability Act; on second reading, coming up in regular order, was read a second time.

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

S. B. 172, Increasing compensation of elected county officials; on second reading, coming up in regular order, was read a second time and ordered to third reading.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page three, section four, line sixty-six, by striking out "2021" and inserting in lieu thereof "2022";

And,

On page five, section four, line one hundred ten, by striking out "2021" and inserting in lieu thereof "2022".

Com. Sub. for S. B. 231, Relating generally to broadband connectivity; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 245, Revising wage payment and collection; on second reading, coming up in regular order, was read a second time.

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

S. B. 253, Relating to voting precincts and redistricting; on second reading, coming up in regular order, was read a second time.

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

"**ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

§3-1-5. Voting precincts and places established; number of voters in precincts; precinct map; municipal map.

(a) The precinct is the basic territorial election unit. The county commission shall divide each magisterial district of the county into election precincts, shall number the precincts, shall determine, and establish the boundaries thereof and shall designate one voting place in each precinct, which place shall be established as nearly as possible at the point most convenient for the voters of the precinct. Each magisterial district shall contain at least one voting precinct and each precinct shall have but one voting place therein.

Each precinct within any urban center shall contain not less than 300, nor more than 1,500 registered voters. Each precinct in a rural or less thickly settled area shall contain not less than 200, nor more than 700 registered voters. A county commission may permit the establishment or retention of a precinct less than the minimum numbers allowed in this subsection upon making a written finding that to do otherwise would cause undue hardship to the voters. If, at any time the number of registered voters exceeds the maximum number specified, the county commission shall rearrange the precincts within the political division so that the new precincts each contain a number of registered voters within the designated limits: *Provided,* That any precincts with polling places that are within a one-mile radius of each other on or after July 1, 2014, may be consolidated, at the discretion of the county clerk and county commission into one or more new precincts that contain not more than 3,000 registered voters in any urban center, nor more than 1,500 registered voters in a rural or less thickly settled area: *Provided, however,* That no precincts may be consolidated pursuant to this section if the consolidation would create a geographical barrier or path of travel between voters in a precinct and their proposed new polling place that would create an undue hardship to voters of any current precinct.

If a county commission fails to rearrange the precincts as required, any qualified voter of the county may apply for a writ of mandamus to compel the performance of this duty: *Provided,* That when in the discretion of the county commission, there is only one place convenient to vote within the precinct and when there are

more than 700 registered voters within the existing precinct, the county commission may designate two or more precincts with the same geographic boundaries and which have voting places located within the same building. The county commission shall designate alphabetically the voters who are eligible to vote in each precinct so created. Each precinct shall be operated separately and independently with separate voting booths, ballot boxes, election commissioners and clerks, and whenever possible, in separate rooms. No two precincts may use the same standard receiving board, except as permitted by the provisions of §3-1-30(j) of this code.

(b) In order to facilitate the conduct of local and special elections and the use of election registration records therein, precinct boundaries shall be established to coincide with the boundaries of any municipality of the county and with the wards or other geographical districts of the municipality, except in instances where found by the county commission to be wholly impracticable so to do. Governing bodies of all municipalities shall provide accurate and current maps of their boundaries to the clerk of any county commission of a county in which any portion of the municipality is located.

(c) To facilitate the federal and state redistricting process, precinct boundaries shall be comprised of intersecting geographic physical features or municipal boundaries recognized by the U. S. Census Bureau. For purposes of this subsection, geographic physical features include streets, roads, streams, creeks, rivers, railroad tracks, and mountain ridge lines. The county commission of every county shall modify precinct boundaries to follow geographic physical features or municipal boundaries recognized by the U.S. Census Bureau and submit changes to the ~~Joint Committee on Government and Finance by June 30, 2007, and by June 30, every ten calendar years thereafter~~ Secretary of State, the President of the Senate, and the Speaker of the House of Delegates in accordance with this section. The county commission shall also submit precinct boundary details to the U.S. Census Bureau upon request.

(d) To facilitate the state's receipt of decennial census data from the U.S. Census Bureau which will include tabulation geography that supports the needs of the Legislature during the federal congressional and state legislative redistricting process, and the needs of county commissions during the magisterial district and precinct redistricting process:

(1) The President of the Senate and the Speaker of the House of Delegates, or designee or designees shall serve as the state's liaison, hereafter referred to as Legislative Liaisons, to the U.S. Census Bureau for purposes of Block Boundary Suggestion Project (Phase I), Voting District Project (Phase II), and Collection of Census Redistricting Plans (Phase IV), or their equivalents, of the U.S. Census Bureau's Redistricting Data Program for the federal decennial census. The Legislature may request the Secretary of State to designate and utilize staff within his or her office to perform the technical responsibilities of this role.

(2) Each county commission shall submit on an ongoing basis to the Legislative liaisons and Secretary of State, its updated precincts and such other information as is sufficient to participate in the Block Boundary Suggestion Project (Phase I) and Voting District Project (Phase II), or their equivalents, of the Redistricting Data Program, including any verification phases. The Legislative liaisons and Secretary of State shall coordinate with all counties for the submission and verification of such information. The Legislative liaisons and Secretary of State, when so requested by the Legislature, shall compile the information submitted by the counties and shall submit and verify such information to the U.S. Census Bureau in compliance with the deadlines established by the U.S. Census Bureau for the Redistricting Data Program. Copies of such submission shall be provided to the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Delegates, and the Minority Leader of the House of Delegates.

(3) Upon the conclusion of any federal congressional or state legislative redistricting process, the Legislature shall provide updated maps and accompanying technical files to the Secretary of State. The Legislature shall submit such maps and accompanying technical files to the U.S. Census Bureau during its Collection of

Census Redistricting Plans (Phase IV) of the Redistricting Data Program. The Secretary of State shall keep available at all times on its website, and during business hours in its office at the Capitol at a place convenient for public inspection, all current maps and accompanying technical files submitted by the Legislature. The Secretary of State shall maintain previous maps and technical files submitted by the Legislature in its records.

~~(d)~~ (e) ~~The~~ Each county commission shall keep available at all times during business hours in the courthouse at a place convenient for public inspection a map or maps of the county and municipalities with the current boundaries of all precincts and magisterial districts. Each county commission shall submit current maps and accompanying technical files to the Legislature and Secretary of State upon updating its precincts and magisterial districts. The Secretary of State shall keep available at all times on its website, and during business hours in its office at the Capitol at a place convenient for public inspection, all current maps and accompanying technical files submitted by the counties. The Secretary of State shall maintain previous maps and accompanying technical files submitted by the counties in its records. The Secretary of State shall notify the Legislature of any submissions it receives from a county commission and shall provide copies of the same to the Legislature."

The bill was then ordered to third reading.

Com. Sub. for S. B. 261, Requiring video cameras in certain special education classrooms; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page five, section eleven, line one hundred five, following the words "the agency", by striking out the word "getting" and inserting the word "receiving";

And,

On page five, section eleven, line one hundred six, following the words "video recording", by striking out the word "will" and inserting the word "shall".

The bill was then ordered to third reading.

Com. Sub. for S. B. 443, Including police and firefighter as electors of trustees for certain pension funds; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 476, Relating to imposition of minimum severance tax on coal; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 478, Relating to Neighborhood Investment Program; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 486, Allowing PERS retirees to designate special needs trust as beneficiary; on second reading, coming up in regular order, was at the request of Delegate Summers, and by unanimous consent, postponed one day.

Com. Sub. for S. B. 487, Relating to Revenue Shortfall Reserve Fund and Revenue Shortfall Reserve Fund – Part B; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

"**ARTICLE 2. STATE BUDGET OFFICE.**

§11B-2-20. Reduction of appropriations; powers of Governor; Revenue Shortfall Reserve Fund and permissible expenditures therefrom.

(a) Notwithstanding any provision of this section, the Governor may reduce appropriations according to any of the methods set forth in sections twenty-one and twenty-two of this article. The Governor may, in lieu of imposing a reduction in appropriations, request an appropriation by the Legislature from the Revenue Shortfall Reserve Fund established in this section.

(b) The Revenue Shortfall Reserve Fund is continued within the State Treasury. The Revenue Shortfall Reserve Fund shall be funded continuously and on a revolving basis in accordance with this subsection up to an aggregate amount not to exceed thirteen percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. The Revenue Shortfall Reserve Fund shall be funded as set forth in this subsection from surplus revenues, if any, in the State Fund, General Revenue, as the surplus revenues may accrue from time to time.

Within sixty days of the end of each fiscal year, the secretary shall cause to be deposited into the Revenue Shortfall Reserve Fund such amount of the first fifty percent of all surplus revenues, if any, determined to have accrued during the fiscal year just ended, as may be necessary to bring the balance of the Revenue Shortfall Reserve Fund to ~~thirteen~~ eight percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. If at the end of any fiscal year the Revenue Shortfall Reserve Fund is funded at an amount equal to or exceeding ~~thirteen~~ eight percent of the state's General Revenue Fund budget for the fiscal year just ended, then there shall be no further deposit by the secretary under the provisions of this section of any surplus revenues as set forth in this subsection until that time the Revenue Shortfall Reserve Fund balance is less than ~~thirteen~~ eight percent of the total appropriations from the State Fund, General Revenue. On or before January 1, 2023, and each year thereafter, the secretary shall recommend in writing to the Governor and the Joint Committee on Government and Finance whether the percentage of the state's General Revenue Fund budget set forth in this paragraph should be adjusted by subsequent enactment of the Legislature and the reasons therefor.

(c) Not earlier than November 1 of each calendar year, if the state's fiscal circumstances are such as to otherwise trigger the authority of the Governor to reduce appropriations under this section or section twenty-one or twenty-two of this article, then in that event the Governor may notify the presiding officers of both houses of the Legislature in writing of his or her intention to convene the Legislature pursuant to section nineteen, article VI of the Constitution of West Virginia for the purpose of requesting the introduction of a supplementary appropriation bill or to request a supplementary appropriation bill at the next preceding regular session of the Legislature to draw money from the surplus Revenue Shortfall Reserve Fund to meet any anticipated revenue shortfall. If the Legislature fails to enact a supplementary appropriation from the Revenue Shortfall Reserve Fund during any special legislative session called for the purposes set forth in this section or during the next preceding regular session of the Legislature, then the Governor may proceed with a reduction of appropriations pursuant to sections twenty-one and twenty-two of this article. Should any amount drawn from the Revenue Shortfall Reserve Fund pursuant to an appropriation made by the Legislature prove insufficient to address any anticipated shortfall, then the Governor may also proceed with a reduction of appropriations pursuant to sections twenty-one and twenty-two of this article.

(d) Upon the creation of the fund, the Legislature is authorized and may make an appropriation from the Revenue Shortfall Reserve Fund for revenue shortfalls, for emergency revenue needs caused by acts of God or natural disasters or for other fiscal needs as determined solely by the Legislature.

(e) Prior to October 31 in any fiscal year in which revenues are inadequate to make timely payments of the state's obligations, 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: *Provided*, That for the fiscal year 2014, pursuant to this subsection and subject to all other conditions, requirements and limitations set forth in this section, the Governor may borrow funds from the Revenue Shortfall Reserve Fund prior to the first day of April. The

amount of funds borrowed under this subsection shall not exceed one and one-half percent of the general revenue estimate for the fiscal year in which the funds are to be borrowed, or the amount the Governor determines is necessary to make timely payment of the state's obligations, whichever is less. Any funds borrowed pursuant to this subsection shall be repaid, without interest, and redeposited to the credit of the Revenue Shortfall Reserve Fund within ninety days of their withdrawal.

(f) The Revenue Shortfall Reserve Fund – Part B is continued within the State Treasury. The Revenue Shortfall Reserve Fund – Part B shall consist of moneys transferred from the West Virginia Tobacco Settlement Medical Trust Fund pursuant to the provisions of section two, article eleven-a, chapter four of this code, repayments made of the loan from the West Virginia Tobacco Settlement Medical Trust Fund to the Physician's Mutual Insurance Company pursuant to the provisions of article twenty-f, chapter thirty-three of this code and all interest and other return earned on the moneys in the Revenue Shortfall Reserve Fund – Part B. Moneys in the Revenue Shortfall Reserve Fund – Part B may be expended solely for the purposes set forth in subsection (d) of this section, subject to the following conditions:

(1) No moneys in the Revenue Shortfall Reserve Fund – Part B nor any interest or other return earned thereon may be expended for any purpose unless all moneys in the Revenue Shortfall Reserve Fund described in subsection (b) of this section have first been expended, except that the interest or other return earned on moneys in the Revenue Shortfall Reserve Fund – Part B may be expended as provided in subdivision (2) of this subsection;

(2) Notwithstanding any other provision of this section to the contrary, the Legislature may appropriate any interest and other return earned thereon that may accrue on the moneys in the Revenue Shortfall Reserve Fund – Part B after June 30, 2025, for expenditure for the purposes set forth in section three, article eleven-a, chapter four of this code; and

(3) Any appropriation made from Revenue Shortfall Reserve Fund – Part B shall be made only in instances of revenue shortfalls or fiscal emergencies of an extraordinary nature.

(g) Subject to the conditions upon expenditures from the Revenue Shortfall Reserve Fund – Part B prescribed in subsection (f) of this section, in appropriating moneys pursuant to the provisions of this section, the Legislature may in any fiscal year appropriate from the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B a total amount up to, but not exceeding, ten percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended.

(h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, $100 million, or such greater amount as may be certified as necessary by the Director of the Budget Office for the purposes of subsection (e) of this section, shall be made available to the West Virginia Board of Treasury Investments for management and investment of the moneys in accordance with the provisions of article six-c, chapter twelve of this code. All other moneys in the Revenue Shortfall Reserve Fund shall be made available to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of article six, chapter twelve of this code. Any balance of the Revenue Shortfall Reserve Fund, including accrued interest and other return earned thereon at the end of any fiscal year, does not revert to the General Fund but shall remain in the Revenue Shortfall Reserve Fund for the purposes set forth in this section.

(2) All of the moneys in the Revenue Shortfall Reserve Fund – Part B shall be made available to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of article six, chapter twelve of this code. Any balance of the Revenue Shortfall Reserve Fund – Part B, including accrued interest and other return earned thereon at the end of any fiscal year, shall not revert to the General Fund but shall remain in the Revenue Shortfall Reserve Fund – Part B for the purposes set forth in this section."

The bill was then ordered to third reading.

S. B. 492, Relating to electronic collection of tolls; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page 2, section 11, line 26, by striking the word "shall" and inserting in lieu thereof the word "may."

The bill was then ordered to third reading.

S. B. 493, Requiring county BOE make meetings available to public in-person and through internet; on second reading, coming up in regular order, was read a second time.

There being two strike and insert amendments, unanimous consent was obtained to consider those amendments first and then allow consideration of amendments to the amendment.

The first strike and insert amendment, recommended by the Committee on the Judiciary, being as follows:

On page 1, immediately following the enacting clause by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-4. Meetings; employment and assignment of teachers; budget hearing; compensation of members; affiliation with state and national associations.

(a) The county board shall meet upon the dates provided by law, and at any other times the county board fixes upon its records. Subject to adequate public notice, nothing in this section prohibits the county board from conducting regular meetings in facilities within the county other than the county board office. At any meeting as authorized in this section and in compliance with the provisions of chapter 18A of this code, the county board may employ qualified teachers, or those who will qualify by the time they enter upon their duties, necessary to fill existing or anticipated vacancies for the current or next ensuing school year. Meetings of

the county board shall be held in compliance with the provisions of chapter 18A of this code for purposes relating to the assignment, transfer, termination, and dismissal of teachers and other school employees.

(b) In addition to any requirements imposed by §6-9A-1 *et seq.* of this code relating to open governmental proceedings, each county board shall ensure that all of its meetings are open to the public through in-person attendance and that the audio and video of its meetings are broadcast live to the public through an internet link on its website *Provided* That, if the live broadcast experiences a technical interruption in which the stream is discontinued or digitally interrupted, the meeting may continue while such technical interruptions are being resolved.

In addition to being available live, each county board also shall ensure that the audio and video is recorded and that the recording is also available through a link on its website. The link to the recording of each meeting shall remain on the county's board website for at least four years. This subsection does not apply to the holding of an executive session pursuant to §6-9A-4 of this code.

Each county board may make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend, subject to the following:

(1) The county board shall adopt procedures related to delegations and speakers at meetings to ensure delegations and speakers are treated equally; and

(2) For any person expressing an interest in speaking at the meeting, the county board shall ensure that the person has the opportunity to speak in compliance with the adopted procedures.

~~(b)~~ (c) Special meetings may be called by the president or any three members, but no business may be transacted other than that designated in the call.

~~(c)~~ (d) In addition, a public hearing shall be held concerning the preliminary operating budget for the next fiscal year not fewer than 10 days after the budget has been made available to the public for inspection and within a reasonable time prior to the submission of the budget to the state board for approval. Reasonable time shall be granted at the hearing to any person who wishes to speak regarding any part of the budget. Notice of the hearing shall be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.

~~(d)~~ (e) A majority of the members of the county board is the quorum necessary for the transaction of official business.

(f) A description of each matter voted on by a county board along with how each member voted on the matter shall be published on the county board's website and remain published on the county board's website for at least four years.

~~(e)~~ (g) Board members may receive compensation at a rate not to exceed $160 per meeting attended, but they may not receive pay for more than 50 meetings in any one fiscal year. Board members who serve on an administrative council of a multi-county vocational center also may receive compensation for attending up to 12 meetings of the council at the same rate as for meetings of the county board. Meetings of the council are not counted as board meetings for purposes of determining the limit on compensable board meetings.

~~(f)~~ (h) Members also shall be paid, upon the presentation of an itemized sworn statement, for all necessary traveling expenses, including all authorized meetings, incurred on official business, at the order of the county board.

~~(g)~~ (i) When, by a majority vote of its members, a county board considers it a matter of public interest, the county board may join the West Virginia School Board Association~~ and the National School Board Association~~ and may pay the dues prescribed by the ~~associations~~ association and approved by action of the respective county boards. Membership dues and actual traveling expenses incurred by board members for attending meetings of the West

Virginia School Board Association may be paid by their respective county boards out of funds available to meet actual expenses of the members, but no allowance may be made except upon sworn itemized statements.

And,

The second strike and insert amendment, offered by Delegate Ellington, being as follows:

On page 1, immediately following the enacting clause by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-4. Meetings; employment and assignment of teachers; budget hearing; compensation of members; affiliation with state and national associations.

(a) The county board shall meet upon the dates provided by law, and at any other times the county board fixes upon its records. Subject to adequate public notice, nothing in this section prohibits the county board from conducting regular meetings in facilities within the county other than the county board office. At any meeting as authorized in this section and in compliance with the provisions of chapter 18A of this code, the county board may employ qualified teachers, or those who will qualify by the time they enter upon their duties, necessary to fill existing or anticipated vacancies for the current or next ensuing school year. Meetings of the county board shall be held in compliance with the provisions of chapter 18A of this code for purposes relating to the assignment, transfer, termination, and dismissal of teachers and other school employees.

(b) In addition to any requirements imposed by §6-9A-1 *et seq.* of this code relating to open governmental proceedings, each county board shall ensure that all of its meetings are open to the public through in-person attendance and that the audio and video of its meetings are broadcast live to the public through an internet link on its website *Provided* That, if the live broadcast experiences

a technical interruption in which the stream is discontinued or digitally interrupted, the meeting may continue while such technical interruptions are being resolved. This subsection does not apply to the holding of an executive session pursuant to §6-9A-4 of this code.

Each county board may make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend. If the county board provides opportunity for the public to address the school board at any meeting the county board shall ensure that any person expressing a desire to speak has the opportunity to speak in compliance with the adopted procedures. All members of the public wishing to address the school board on an issue pursuant to policies adopted by the board shall be treated equally.

~~(b)~~ (c) Special meetings may be called by the president or any three members, but no business may be transacted other than that designated in the call.

~~(c)~~ (d) In addition, a public hearing shall be held concerning the preliminary operating budget for the next fiscal year not fewer than 10 days after the budget has been made available to the public for inspection and within a reasonable time prior to the submission of the budget to the state board for approval. Reasonable time shall be granted at the hearing to any person who wishes to speak regarding any part of the budget. Notice of the hearing shall be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.

~~(d)~~ (e) A majority of the members of the county board is the quorum necessary for the transaction of official business.

(f) Minutes of each public board meeting must include a record of the votes cast by each board member on all substantive matters and be posted to the website within two business days after the meeting. Minutes shall remain on the website for at least one year after the meeting.

~~(e)~~ (g) Board members may receive compensation at a rate not to exceed $160 per meeting attended, but they may not receive pay for more than 50 meetings in any one fiscal year. Board members who serve on an administrative council of a multi-county vocational center also may receive compensation for attending up to 12 meetings of the council at the same rate as for meetings of the county board. Meetings of the council are not counted as board meetings for purposes of determining the limit on compensable board meetings.

~~(f)~~ (h) Members also shall be paid, upon the presentation of an itemized sworn statement, for all necessary traveling expenses, including all authorized meetings, incurred on official business, at the order of the county board.

~~(g)~~ (i) When, by a majority vote of its members, a county board considers it a matter of public interest, the county board may join the West Virginia School Board Association~~ and the National School Board Association~~ and may pay the dues prescribed by the ~~associations~~ association and approved by action of the respective county boards. Membership dues and actual traveling expenses incurred by board members for attending meetings of the West Virginia School Board Association may be paid by their respective county boards out of funds available to meet actual expenses of the members, but no allowance may be made except upon sworn itemized statements.

Whereupon,

Delegate Ellington obtained unanimous consent to reform his amendment as follows:

On page 1, immediately following the enacting clause by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

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

§18-5-4. Meetings; employment and assignment of teachers; budget hearing; compensation of members; affiliation with state and national associations.

(a) The county board shall meet upon the dates provided by law, and at any other times the county board fixes upon its records. Subject to adequate public notice, nothing in this section prohibits the county board from conducting regular meetings in facilities within the county other than the county board office. At any meeting as authorized in this section and in compliance with the provisions of chapter 18A of this code, the county board may employ qualified teachers, or those who will qualify by the time they enter upon their duties, necessary to fill existing or anticipated vacancies for the current or next ensuing school year. Meetings of the county board shall be held in compliance with the provisions of chapter 18A of this code for purposes relating to the assignment, transfer, termination, and dismissal of teachers and other school employees.

(b) In addition to any requirements imposed by §6-9A-1 *et seq.* of this code relating to open governmental proceedings, each county board shall ensure that all of its meetings are open to the public through in-person attendance and that the audio and video of its meetings are broadcast live to the public through an internet link on its website: *Provided*, That, if the live broadcast experiences a technical interruption in which the stream is discontinued or digitally interrupted, the meeting may continue while such technical interruptions are being resolved. This subsection does not apply to the holding of an executive session pursuant to §6-9A-4 of this code.

Each county board may make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend. If the county board provides opportunity for the public to address the school board at any meeting the county board shall ensure that any person expressing a desire to speak has the opportunity to speak in compliance with the adopted procedures. All members of the public wishing to address the school board on an issue pursuant to policies adopted by the board shall be treated equally.

~~(b)~~ (c) Special meetings may be called by the president or any three members, but no business may be transacted other than that designated in the call.

~~(c)~~ (d) In addition, a public hearing shall be held concerning the preliminary operating budget for the next fiscal year not fewer than 10 days after the budget has been made available to the public for inspection and within a reasonable time prior to the submission of the budget to the state board for approval. Reasonable time shall be granted at the hearing to any person who wishes to speak regarding any part of the budget. Notice of the hearing shall be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.

~~(d)~~ (e) A majority of the members of the county board is the quorum necessary for the transaction of official business.

(f) A draft of the minutes of each public board meeting must include a record of the votes cast by each board member on all substantive matters and be posted to the website within two business days after the meeting. After approval, minutes shall remain on the website for at least one year after the meeting.

~~(e)~~ (g) Board members may receive compensation at a rate not to exceed $160 per meeting attended, but they may not receive pay for more than 50 meetings in any one fiscal year. Board members who serve on an administrative council of a multi-county vocational center also may receive compensation for attending up to 12 meetings of the council at the same rate as for meetings of the county board. Meetings of the council are not counted as board meetings for purposes of determining the limit on compensable board meetings.

~~(f)~~ (h) Members also shall be paid, upon the presentation of an itemized sworn statement, for all necessary traveling expenses, including all authorized meetings, incurred on official business, at the order of the county board.

~~(g)~~ (i) When, by a majority vote of its members, a county board considers it a matter of public interest, the county board may join the West Virginia School Board Association~~ and the National School Board Association~~ and may pay the dues prescribed by the ~~associations~~ association and approved by action of the respective county boards. Membership dues and actual traveling expenses

incurred by board members for attending meetings of the West Virginia School Board Association may be paid by their respective county boards out of funds available to meet actual expenses of the members, but no allowance may be made except upon sworn itemized statements."

On adoption of the strike and insert amendment recommended by the Committee on the Judiciary, the same was put and did not prevail.

The House then adopted the reformed strike and insert amendment offered by Delegate Ellington.

Whereupon,

Unanimous consent was obtained to withdraw amendments sponsored by Delegate Pushkin and by Delegates Martin and Westfall.

The bill was then ordered to third reading.

Com. Sub. for S. B. 518, Allowing nurses licensed in another state to practice in WV; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

"**ARTICLE 7. REGISTERED PROFESSIONAL NURSES.**

§30-7-1a. Eligibility for licensure by meeting requirements which existed prior to the legislative enactments during the 2012 legislative session.

[Repealed].

§30-7-3. Board of examiners for registered professional nurses.

~~The Governor shall appoint, by and with the advice and consent of the Senate, a board consisting of five members who shall~~

~~constitute and be known as the West Virginia board of examiners for registered professional nurses.~~

~~Appointments hereunder shall be made by the Governor, by and with the advice and consent of the Senate, from lists submitted to the Governor by the West Virginia nurses' association. Such lists shall contain the names of at least three persons eligible for membership for each membership or vacancy to be filled and shall be submitted to the Governor on or before June 1 of each year and at such other time or times as a vacancy on the board shall exist. Appointments under the provisions of this article shall be for a term of five years each or for the unexpired term, if any, of the present members. Any member may be eligible for reappointment, but no member shall serve longer than two successive terms. Vacancies shall be filled in the same manner as is provided for appointment in the first instance. The Governor may remove any member for neglect of duty, for incompetence, or for unprofessional or dishonorable conduct.~~

~~Each member of the board hereafter appointed shall (a) be a citizen of the United States and a resident of this state, (b) be a graduate from an accredited educational program in this or any other state for the preparation of practitioners of registered professional nursing, or be a graduate from an accredited college or university with a major in the field of nursing, (c) be a graduate from an accredited college or university, (d) be a registered professional nurse licensed in this state or eligible for licensure as such, (e) have had at least five years of experience in teaching in an educational program for the preparation of practitioners of registered professional nursing, or in a combination of such teaching and either nursing service administration or nursing education administration, and (f) have been actually engaged in registered professional nursing for at least three within the past five years preceding his or her appointment or reappointment.~~

~~Each member of the board shall receive $50 for each day actually spent in attending meetings of the board, or of its committees, and shall also be reimbursed for actual and necessary expenses: *Provided*, That the per diem increased by this amendment shall be effective upon passage of this article.~~

(a) The West Virginia Board of Examiners for Registered Professional Nurses is renamed the West Virginia Board of Registered Nurses effective July 1, 2022. The members of the West Virginia Board of Examiners for Registered Professional Nurses shall remain as members until the new appointments are made.

(b) By July 1, 2022, the Governor, by and with the advice and consent of the Senate, shall appoint a new board as follows:

(1) One person licensed as an advanced practice registered professional nurse by the board;

(2) One person who is certified as a dialysis technician by the board;

(3) Four persons licensed as a registered professional nurse by the board and meet the following requirements:

(A) One registered professional nurse, who provides direct patient care in a long-term care facility, home health or hospice;

(B) Two registered professional nurses, who provide direct patient care in a hospital setting or acute care setting; and,

(C) One registered professional nurse, who teaches nursing; and,

(4) One citizen member who is not licensed under the provisions of this chapter and who has never performed any services as a health care professional.

(c) Organizations that represent nurses may submit to the Governor recommendations for the appointment of the licensed board members.

(d) The appointment term is four years. A member may not serve more than two consecutive terms. A member may continue to serve until his or her successor has been appointed and qualified.

(e) Each member of the board shall be a resident of this state during the appointment term.

(f) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant.

(g) The Governor may remove any member from the board for neglect of duty, incompetency, or official misconduct.

(h) A licensed member of the board immediately and automatically forfeits membership to the board if his or her license to practice is disciplined in any jurisdiction.

(i) A member of the board immediately and automatically forfeits membership to the board if he or she is convicted of a felony under the laws of any jurisdiction or becomes a nonresident of this state.

(j) The board shall elect one of its members as president and one member as secretary who shall serve at the will and pleasure of the board.

(k) A member of the board is entitled to receive compensation and expense reimbursement in accordance with §30-1-1 *et seq.* of this code.

(l) A simple majority of the membership serving on the board at a given time is a quorum for the transaction of business.

(m) The board shall hold at least two meetings annually. Other meetings shall be held at the call of the president or upon the written request of four members, at the time and place as designated in the call or request.

(n) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

(o) A board member, when acting in good faith and without malice, shall enjoy immunity from individual civil liability while acting within the scope of their duties as board members.

§30-7-4. Organization and meetings of board; quorum; powers and duties generally; executive secretary; funds.

~~The board shall meet at least once each year and shall elect from its members a president and a secretary. The secretary shall also act as treasurer of the board. The board may hold such other meetings during the year as it may deem necessary to transact its business. A majority, including one officer, of the board shall constitute a quorum at any meeting. The board is hereby authorized and empowered to:~~

~~(a) Adopt and, from time to time, amend such rules and regulations, not inconsistent with this article, as may be necessary to enable it to carry into effect the provisions of this article;~~

~~(b) Prescribe standards for educational programs preparing persons for licensure to practice registered professional nursing under this article;~~

~~(c) Provide for surveys of such educational programs at such time as it may deem necessary;~~

~~(d) Accredit such educational programs for the preparation of practitioners of registered professional nursing as shall meet the requirements of this article and of the board;~~

~~(e) Deny or withdraw accreditation of educational programs for failure to meet or maintain prescribed standards required by this article and by the board;~~

~~(f) Examine, license and renew the licenses of duly qualified applicants;~~

~~(g) Conduct hearings upon charges calling for discipline of a licensee or revocation or suspension of a license;~~

~~(h) Keep a record of all proceedings of the board;~~

~~(i) Make a biennial report to the Governor and the Legislative Oversight Commission for Health and Human Resources Accountability;~~

~~(j) Appoint and employ a qualified person, who shall not be a member of the board, to serve as executive secretary to the board;~~

~~(k) Define the duties and fix the compensation for the executive secretary; and~~

~~(l) Employ such other persons as may be necessary to carry on the work of the board.~~

(a) The board has all the powers and duties set forth in this article, in §30-1-1 *et seq.* of this code and elsewhere in law, including the ability to:

(1) Hold meetings;

(2) Establish procedures for submitting, approving, and rejecting applications for a license and permit;

(3) Determine the qualifications of an applicant for a license and permit;

(4) Establish the fees charged under the provisions of this article;

(5) Issue, renew, restrict, deny, suspend, revoke, or reinstate a license and permit;

(6) Prepare, conduct, administer, and grade written, oral, or written and oral examinations for a license;

(7) Contract with third parties to administer the examinations required under the provisions of this article;

(8) Maintain records of the examinations the board, or a third party, administers, including the number of persons taking the examination and the pass and fail rate;

(9) Maintain an office and hire, discharge, establish the job requirements, and fix the compensation of employees, and contract with persons necessary to enforce the provisions of this article;

(10) Employ investigators, attorneys, hearing examiners, consultants, and other employees as may be necessary who are exempt from the classified service and who serve at the will and pleasure of the board;

(11) Delegate hiring of employees to the executive director;

(12) Investigate alleged violations of the provisions of this article and legislative rules, orders, and final decisions of the board;

(13) Conduct disciplinary hearings of persons regulated by the board;

(14) Determine disciplinary action and issue orders;

(15) Institute appropriate legal action for the enforcement of the provisions of this article;

(16) Maintain an accurate registry of names and addresses of all persons regulated by the board;

(17) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;

(18) Public meeting minutes to its website within 14 days of a meeting;

(19) Propose rules in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article;

(20) Sue and be sued in its official name as an agency of this state;

(21) Approve a nursing school;

(22) Establish a nurse health program;

(23) Implement the provisions of the enhanced nurse licensure compact in accordance with §30-7B-1 *et seq.* of this code;

(24) Coordinate with and assist the Center for Nursing in accordance with §30-7B-1 *et seq.* of this code; and

(25) Confer with the Attorney General or his or her assistant in connection with legal matters and questions.

(b) All fees and other moneys collected by the board pursuant to the provisions of this article shall be kept in a separate fund and expended solely for the purpose of this article. No part of this special fund shall revert to the General Funds of this state. The compensation provided by this article and all expenses incurred under this article shall be paid from this special fund. No compensation or expense incurred under this article shall be a charge against the General Funds of this state.

§30-7-6. License to practice registered professional nursing.

~~(a) To obtain a license to practice registered professional nursing, an applicant for such license shall submit to the board written evidence, verified by oath, that he or she: (1) Is of good moral character; (2) has completed an approved four year high school course of study or the equivalent thereof, as determined by the appropriate educational agency; and (3) has completed an accredited program of registered professional nursing education and holds a diploma of a school accredited by the board.~~

~~(b) The applicant shall also be required to pass a written examination in such subjects as the board may determine. Each written examination may be supplemented by an oral examination. Upon successfully passing such examination or examinations, the board shall issue to the applicant a license to practice registered professional nursing. The board shall determine the times and places for examinations. In the event an applicant shall have failed to pass examinations on two occasions, the applicant shall, in addition to the other requirements of this section, present to the board such other evidence of his or her qualifications as the board may prescribe.~~

~~(c) The board may, upon application, issue a license to practice registered professional nursing by endorsement to an applicant who has been duly licensed as a registered professional nurse under the laws of another state, territory or foreign country if in the~~

~~opinion of the board the applicant meets the qualifications required of registered professional nurses at the time of graduation.~~

~~(d) The board may, upon application and proper identification determined by the board, issue a temporary permit to practice registered professional nursing by endorsement to an applicant who has been duly licensed as a registered professional nurse under the laws of another state, territory or foreign country. Such temporary permit authorizes the holder to practice registered professional nursing in this state while the temporary permit is effective. A temporary permit shall be effective for ninety days, unless the board revokes such permit prior to its expiration, and such permit may not be renewed. Any person applying for a temporary license under the provisions of this paragraph shall, with his or her application, pay to the board a nonrefundable fee of $10.~~

~~(e) Any person holding a valid license designated as a "waiver license" may submit an application to the board for a license containing no reference to the fact that such person has theretofore been issued such "waiver license." The provisions of this section relating to examination and fees and the provisions of all other sections of this article shall apply to any application submitted to the board pursuant to the provisions of this paragraph.~~

~~(f) Any person applying for a license to practice registered professional nursing under the provisions of this article shall, with his or her application, pay to the board a fee of $40: *Provided,* That the fee to be paid for the year commencing July 1, 1982, shall be $70: *Provided, however,* That the board in its discretion may, by rule or regulation, decrease either or both said license fees. In the event it shall be necessary for the board to reexamine any applicant for a license, an additional fee shall be paid to the board by the applicant for reexamination: *Provided further,* That the total of such additional fees shall in no case exceed $100 for any one examination.~~

~~(g) Any person holding a license heretofore issued by the West Virginia state Board of Examiners for Registered Nurses and which license is valid on the date this article becomes effective shall be deemed to be duly licensed under the provisions of this article for~~

~~the remainder of the period of any such license heretofore issued. Any such license heretofore issued shall also, for all purposes, be deemed to be a license issued under this article and to be subject to the provisions hereof.~~

~~(h) The board shall, upon receipt of a duly executed application for licensure and of the accompanying fee of $70, issue a temporary permit to practice registered professional nursing to any applicant who has received a diploma from a school of nursing approved by the board pursuant to this article after the date the board last scheduled a written examination for persons eligible for licensure: *Provided,* That no such temporary permit shall be renewable nor shall any such permit be valid for any purpose subsequent to the date the board has announced the results of the first written examination given by the board following the issuance of such permit.~~

~~(i) To obtain a license to practice as an advanced practice registered nurse, an applicant must submit a written application, verified by oath, to the board together with an application fee established by the board through an authorized legislative rule. The requirements for a license to practice as an advanced practice registered nurse in this state are listed below and must be demonstrated to the board through satisfactory evidence submitted with the application for a license:~~

~~(1) The applicant must be licensed in good standing with the board as a registered professional nurse;~~

~~(2) The applicant must have satisfactorily completed a graduate level program accredited by a national accreditation body that is acceptable to the board; and~~

~~(3) The applicant must be currently certified by a national certification organization, approved by the board, in one or more of the following nationally recognized advance practice registered nursing roles: certified registered nurse anesthetist, certified nurse-midwife, clinical nurse specialist or certified nurse practitioner.~~

(a) The board may issue a license to practice registered nursing to an applicant who meets the following requirements:

(1) Is at least 18 years of age;

(2) Has completed an approved four-year high school course of study or the equivalent thereof, as determined by the appropriate educational agency;

(3) Has completed a nursing education program;

(4) Has passed an examination approved by the board;

(5) Has paid the application fee specified by rule;

(6) Has completed a criminal background check, as required by §30-1D-1 *et seq.* of this code; and,

(7) Is not an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code, unless an applicant in an active recovery process, which may be evidenced by participation in a Nurse Health Program, structured aftercare, or a twelve-step program or other similar group or process, may be considered.

(b) A license to practice registered professional nursing issued by the board shall for all purposes be considered a license issued under this section: *Provided,* That a person holding a license shall renew the license.

§30-7-7. License to practice advanced practice registered nursing.

~~(a) The board may, upon application, issue a license to practice registered professional nursing by endorsement to any person who is not a citizen of the United States of America if such person: (1) Has been duly licensed as a registered professional nurse under the laws of another state, territory or foreign country; and (2) shall, in any such state, territory or foreign country, have passed a written examination in the English language which, in the opinion of the board, is comparable in content and scope to the type of written examination that is required in subsection~~

~~(b) of section six of this article.~~

~~(b) All other provisions of this article shall be applicable to any application for or license issued pursuant to this section.~~

(a) The board may issue an advanced practice registered nurse license to an applicant who meets the following requirements:

(1) Is at least 18 years of age;

(2) Is currently certified by a national certification organization, approved by the board, in one or more of the following nationally recognized advance practice registered nursing roles: certified registered nurse anesthetist, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner;

(3) Has paid the application fee specified by legislative rule; and

(4) Is not an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code, unless an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a Nurse Health Program, structured aftercare, or a twelve-step program or other similar group or process, may be considered.

(b) An advanced practice registered nurse license issued by the board and in good standing on the effective date of the amendments to this section shall for all purposes be considered an advanced practice registered nurse license issued under this section: *Provided*, That a person holding an advanced practice registered nurse license shall renew the license.

(c) An applicant, who is licensed in another jurisdiction as an advanced practice registered nurse, is eligible to apply for licensure.

(d) By virtue of being a licensed advanced practice registered nurse that person is also licensed as a registered professional nurse. The board may not charge an additional fee for registered professional nurse license

§30-7-8. License renewal.

~~The license of every person licensed and registered under the provisions of this article shall be annually renewed except as hereinafter provided. At such time or times as the board in its discretion may determine, the board shall mail a renewal application to every person whose license was renewed during the previous year and every such person shall fill in such application blank and return it to the board with a renewal fee of $25 within thirty days after receipt of said renewal application: *Provided,* That the board in its discretion by rule may increase or decrease the renewal fee. Upon receipt of the application and fee, the board shall verify the accuracy of the application and, if the same be accurate, issue to the applicant a certificate of renewal for the current year. Such certificate of renewal shall entitle the holder thereof to practice registered professional nursing for the period stated on the certificate of renewal. Any licensee who allows his or her license to lapse by failing to renew the license as provided above may be reinstated by the board on satisfactory explanation for such failure to renew his or her license and on payment to the board of the renewal fee hereinabove provided and a reinstatement fee of $50. Any person practicing registered professional nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violation of this article. A person licensed under the provisions of this article desiring to retire from practice temporarily shall send a written notice of such desire to the board. Upon receipt of such notice the board shall place the name of such person upon the inactive list. While remaining on this list the person shall not be subject to the payment of any renewal fees and shall not practice registered professional nursing in this state. When the person desires to resume active practice, application for renewal of license and payment of the renewal fee for the current year shall be made to the board.~~

(a) Persons regulated by this article shall annually or biennially, renew his or her board authorization by completing a form prescribed by the board and submitting any other information required by the board.

(b) The board shall charge a fee for each renewal of a board authorization and shall charge a late fee for any renewal not paid by the due date.

(c) The board may deny an application for renewal for any reason which would justify the denial of an original application.

§30-7-8a. Temporary permits.

~~(a) The board is authorized to assess a supplemental licensure fee not to exceed $10 per license per year. The supplemental licensure fee is to be used to fund the center for nursing and to carry out its purposes as set forth in article seven-b of this chapter.~~

~~(b) The board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish the supplemental licensure fee.~~

~~(c) The board may promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code for the initial fee assessment.~~

The board may issue a temporary permit to a person applying for a license under this article.

§30-7-15e. Joint Advisory Council on Limited Prescriptive Authority.

[Repealed.]

§30-7-18. Nursing shortage study commission.

(a) ~~The Legislature finds the following:~~

~~(1) Health care services are becoming complex and it is increasingly difficult for patients to access integrated services;~~

~~(2) Quality of patient care is jeopardized because of insufficient nursing staff;~~

~~(3) To ensure the adequate protection of patients in acute care settings, it is essential that qualified registered nurses and other~~

~~licensed nurses be accessible and available to meet the needs of patients;~~

~~(4) In West Virginia, and across the country, concerns about an increasing nursing shortage continue to grow;~~

~~(5) A number of factors contribute to the growing shortages in qualified nursing personnel;~~

~~(6) The way care is delivered has changed dramatically over the last decade with more people being treated in outpatient settings, shorter and more intense lengths of stay in acute and long-term care settings, and the development of alternatives to nursing home care;~~

~~(7) These changes have led to a number of employment options~~

~~becoming available to nurses that did not exist previously, making it difficult for employers of nurses to recruit and retain qualified nursing personnel;~~

~~(8) Severe cutbacks in the federal Medicare program, state budgetary pressures related to the Medicaid program and continued pressure from insurers to reduce their costs and to retrospectively deny payment for services rendered, have: (A) Made it extremely difficult for many providers to keep up with other employers in salaries and benefits and to recruit and retain qualified nursing personnel; and (B) increased stresses in the work environment;~~

~~(9) The increasing reliance on temporary employment agencies to meet nursing personnel needs further complicates the situation as continuity of care is disrupted, quality of patient care is jeopardized, and costs pressures are further increased; and~~

~~(10) Because of the multifaceted nature of these problems, it is critical that all of the interested and affected parties cooperate and collaborate in the development of solutions.~~

~~(b)~~ A nursing shortage study commission shall be created by the ~~West Virginia~~ board ~~of examiners for registered professional~~

~~nurses~~. The board shall appoint ~~eleven~~ 9 members to the commission. The board shall appoint:

(1) ~~Two individuals who are~~ One individual who is on the board ~~of examiners for registered professional nurses; one of which is employed in a school of nursing~~;

(2) Two individuals that are employed as registered professional nurses in a hospital and who work primarily providing direct patient care;

(3) Two registered professional nurses who work as long-term care nurses, one of whom works in a nursing home and one of whom works for a home health agency, both of whom work primarily providing direct patient care;

(4) One nursing administrator; ~~of a hospital in this state;~~

(5) ~~One doctoral prepared nurse researcher;~~ The Chancellor of the Higher Education Policy Commission

(6) ~~One nursing home administrator; and~~ The West Virginia Nurses' Association President; and,

(7) ~~Two representatives of the public not currently or previously employed in hospital, nursing home or for a related entity.~~ The Executive Director of the Center for Nursing.

~~(c)~~ (b) Members of the commission are not entitled to compensation for services performed as members, but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties. ~~Six~~ 5 of the appointed members is a quorum for the purpose of conducting business. The board shall meet at least monthly. The board shall designate a chair, who is not a public official. The commission shall conduct all meetings in accordance with the open meeting law pursuant to §6-9A-1 *et seq.* of this code.

~~(d)~~ (c) The commission shall:

(1) Study the nursing shortage in West Virginia and ways to alleviate it, including, but not limited to:

(A) Evaluating mechanisms currently available in the state and elsewhere intended to enhance education, recruitment, and retention of nurses in the workforce and to improve quality of care;

(B) Assessing the impact of shortages in nursing personnel on access to, and the delivery of, quality patient care;

(C) Developing recommendations on strategies to reverse the growing shortage of qualified nursing personnel in the state, including:

(i) Determining what changes are needed to existing programs, current scholarship programs and funding mechanisms to better reflect and accommodate the changing health care delivery environment and to improve quality of care to meet the needs of patients;

(ii) Facilitating career advancement within nursing;

(iii) Identifying more accurately specific shortage areas in a more timely manner;

(iv) Attracting middle and high school students into nursing as a career; and

(v) Projecting a more positive and professional image of nursing.

(2) ~~Report to the Legislature by February 1, 2002, its findings and recommendations on or before February 1 each year thereafter.~~

Report its findings and recommendation to the Joint Committee on Health by December 1, 2022.

(3) Terminate January 1, 2023.

§30-7-20. Pilot program.

[Repealed.]

The bill was then ordered to third reading.

Com. Sub. for S. B. 528, Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

That the total appropriation for the fiscal year ending June 30, 2022, to fund 0525, fiscal year 2022, organization 0506, be supplemented and amended by adding a new item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

58 – Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2022 Org 0506

	Appro-priation		**General Revenue Fund**
6a Institutional Facilities and Operations – Surplus (R)	63200	$	15,625,000

The bill was then ordered to third reading.

S. B. 529, Encouraging additional computer science education in WV schools; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page two, section twelve, line twenty-five, following the words "computer architecture" and the comma, by inserting the words "coding, application development";

On page three, section twelve, line forty-three, following the words "computer architecture" and the comma, by inserting the words "coding, application development";

And,

On page three, section twelve, line fifty-four, following the word "architecture" and the comma, by inserting the words "coding, application development";

And,

On page three, section twelve, beginning on line sixty-two, following the words "post-secondary opportunities", by striking out the words "prior to the 2020-2021 school year" and the comma.

On motion of Delegates Kessinger and Steele, the bill was amended on page 3, section 12, line 43, after the word "development" by adding a comma and the words "digital literacy" and a comma.

There being no further amendments, the bill was ordered to third reading.

Com. Sub. for S. B. 543, Creating Unemployment Compensation Insurance Fraud Unit within Workforce WV; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page 3, section 23, line 54, by adding a new subsection (g) reading as follows: "Neither the state, a political subdivision, an agency, nor an employee of the state acting in an official capacity may be held personally liable for an act of an investigator

employed by the unit if the act or omission was done in good faith while the investigator was performing official duties on behalf of the unit."

The bill was then ordered to third reading.

S. B. 546, Expanding uses of fees paid by students at higher education institutions; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 550, Relating to funding for higher education institutions; on second reading, coming up in regular order, was reported by the Clerk.

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

S. B. 570, Establishing training for law-enforcement in handling individuals with Alzheimer's and dementias; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

"**ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.**

§30-29-5a. Criminal justice training regarding individuals with autism spectrum disorders; Alzheimer's and dementia.

(a) The Law-Enforcement ~~Special~~ Professional Standards Subcommittee ~~may~~ shall establish within the basic training curriculum, a course for law-enforcement training programs for the training of law-enforcement officers and correction officers in appropriate interactions with individuals with autism spectrum disorders, Alzheimer's and related dementias and ~~may~~ shall develop guidelines for law enforcement response to individuals on the autism spectrum, experience Alzheimer's and related

dementias who are victims or witnesses to a crime, or suspected or convicted of a crime.

(b) The course of instruction and the guidelines relating to autism spectrum disorders shall be developed and delivered by the West Virginia Autism Training Center, located at Marshall University. This course of instruction may stress positive responses to such individuals, de-escalate potentially dangerous situations, provide an understanding of the different manner in which such individuals process sensory stimuli and language, social communication, and language difficulties likely to affect interaction, and appropriate methods of interrogation. Training instructors shall always include adults with autism spectrum disorders and/or a parent or primary caretaker of an individual diagnosed with autism spectrum disorder.

(c) The training course of instruction relating to Alzheimer's and dementia shall consist of two hours and be based on evidence-informed research into the identification of persons with Alzheimer's and other dementias, risks such as wandering or elder abuse, and the best practices for law-enforcement officers interacting with such persons. The training course of instruction may be delivered by any qualified entity, organization, or person approved by the Law-Enforcement Professional Standards Subcommittee.

(c) (d) As used in this section:

(1) 'Agency' means the ability to make independent decisions and act in one's own best interests;

(2) 'Alzheimer's' means a medical condition diagnosis of the most common type of dementia which is a gradually progressive type of brain disorder that causes problems with memory, thinking, and behavior.

(2) (3) 'Autism spectrum disorder' means a developmental disability characterized by persistent and significant deficits in social communication, social interaction, communication, and behavior, and may include the diagnosis of pervasive

developmental disorder, not otherwise specified, autistic disorder, and Asperger's Syndrome as defined in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association;

(4) Related 'dementias' means a major neurocognitive disorder resulting in the loss of cognitive functioning, thinking, remembering, and reasoning to such an extent that it interferes with a person's daily life and activities, including, but not limited to, inability to control emotions, and change of personalities.

(3) (5) 'Law-enforcement officer' means any officer of any West Virginia law-enforcement agency, or any state institution of higher education as defined in §30-29-1(6) of this code; and

(4) (6) 'Training instructors' means professional experts, autistic adults, and/or the family member or primary caregiver of an autistic individual who deliver instruction and information.

(d) (e) The autism spectrum disorder course of basic training for law-enforcement officers and correction officers may include at least three hours of instruction in the procedures and techniques described in this subsection:

(1) The nature and manifestation of autism spectrum disorders;

(2) Appropriate techniques for interviewing or interrogating an individual on the autism spectrum, including techniques to ensure the legality of statements made, and techniques to protect the rights of the interviewee;

(3) Techniques for locating an individual on the autism spectrum who runs away and is in danger, and returning the individual while causing as little stress as possible to the individual;

(4) Techniques for recognizing an autistic individual's agency while identifying potential abusive or coercive situations;

(5) Techniques for de-escalating a potentially dangerous situation to maximize the safety of both the law-enforcement officer or correction officer and the autistic individual;

(6) Techniques for differentiating between an individual on the autism spectrum from an individual who is belligerent, uncooperative, or otherwise displaying traits similar to the characteristics of an autistic individual;

(7) Procedures to identify and address challenges related to the safety and well-being of autistic individuals in a correctional facility; and

(8) The impact of interaction with law-enforcement officers or correction officers on autistic individuals.

(f) The Alzheimer's and related dementias course of basic training for law-enforcement officers and correction officers may include at least two hours of instruction in the procedures and techniques described in this subsection:

(1) Dementia, psychiatric, and behavioral symptoms;

(2) Communication issues, including how to communicate respectfully and effectively with the individual who has dementia in order to determine the most appropriate response and effective communication techniques to enhance collaboration with caregivers;

(3) Techniques for understanding and approaching behavioral symptoms and identify alternatives to physical restraints;

(4) Identifying and reporting incidents of abuse, neglect, and exploitation to Adult Protective Services (APS) at West Virginia Department of Health and Human Services;

(5) Techniques for de-escalating a potentially dangerous situation to maximize the safety of both the law-enforcement officer or correction officer and the individual with Alzheimer's or related dementias;

(6) Protocols for contacting caregivers when a person with dementia is found wandering or during emergency or crisis situations;

(7) Local caregiving resources that are available for people living with dementia; and

(8) The impact of interaction with law-enforcement officers or correction officers on Alzheimer's and dementia individuals.

(e) (g) All law-enforcement recruits may receive the course of basic training for law-enforcement officers, established in this section, as part of their required certification process. The course of basic training for law-enforcement officers may be taught as part of the "crisis intervention and conflict resolution" and "people with special needs" components of the training.

(f) (h) All correction officer recruits may receive the course of basic training for correction officers, established in this section, as part of their required certification process.

(g) (i) The Commissioner of the Division of Corrections and Rehabilitation periodically may include within the in-service training curriculum a course of instruction on individuals with autism spectrum disorder, Alzheimer's, and related dementias, consistent with this section.

(h) (j) The Law-Enforcement Professional Standards Subcommittee periodically may include within its in-service training curriculum, a course of instruction on individuals with autism spectrum disorder, Alzheimer's, and related dementias, consistent with this section."

The bill was then ordered to third reading.

Com. Sub. for S. B. 571, Declaring certain claims to be moral obligations of state; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page 1, section 1, following the enacting clause, by striking the section heading in its entirety and inserting in lieu thereof the following:

"**§1. Finding and declaring certain claims against the Legislature, Joint Committee on Government and Finance; Department of Environmental Protection; Department of Environmental Protection, Office of Special Reclamation; Department of Health & Human Resources; Department of Homeland Security, Division of Corrections and Rehabilitation; Department of Transportation, Division of Highways; Department of Transportation, Division of Motor Vehicles; Department of Veterans Affairs; and West Virginia Parole Board to be moral obligations of the state and directing payment thereof.**"; and

On page 6, section 1, line 89, by striking "Christie" and inserting in lieu thereof "Cristie"; and

On page 10, section 1, line 182, following "Sandra", by striking "McCalister" and inserting in lieu thereof "McAlister".

The bill was then ordered to third reading.

Com. Sub. for S. B. 584, Relating to WV Infrastructure and Jobs Development Council; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page 4, section 10, line 68, following the word "assistance" by inserting "to defray the expenses of the preapplication process"; and

On page 4, section 17c, line 5, following the word "balances" by striking the words "for each congressional district".

The bill was then ordered to third reading.

Com. Sub. for S. B. 585, Creating administrative medicine license for physicians not practicing clinical medicine; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 624, Making supplementary appropriation to DHHR, Division of Health, Laboratory Services; on second reading,

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

Com. Sub. for S. B. 625, Making supplementary appropriation to DHHR, Division of Health, Vital Statistics Account; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 633, Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 634, Making supplementary appropriation to DHHR, Division of Health – Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 641, Requiring Consolidated Public Retirement Board to set contributions to Deputy Sheriff's Retirement System; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page 1, section 7, line 11, following the word "set" by striking "actuarily" and inserting in lieu thereof "actuarially"; and

On page 2, section 7, line 21, following "retirement" by inserting "system"; and

On page 2, section 7, line 29, following "set" by striking "actuarily" and inserting in lieu thereof "actuarially".

The bill was then ordered to third reading.

Com. Sub. for S. B. 643, Removing residency requirement of members appointed to county airport authority; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 698, Relating to number and selection of members for Governor's Veterans Council; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 704, Allowing parents, grandparents, and guardians to inspect instructional materials in classroom; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk on page 1, section 27, line 1, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

And,

On page 1, section 27, line 6, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

And,

On page 1, section 27, line 8, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

And,

On page 1, section 27, line 9, after the words "inspect the" by striking out the word "supplementary";

And,

On page 2, section 27, line 11, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

And,

On page 2, section 27, line 12, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

And,

On page 2, section 27, line 17, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

And,

On page 2, section 27, line 19, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

And,

On page 2, section 27, line 22, after the word "parent," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

And,

On page 2, section 27, line 32, after the word "section," by striking out the word "grandparent" and inserting in lieu thereof the word "custodian";

And,

On page 2, section 27, line 32, after the words "means a" by striking out the words "grandparent of the child" and inserting in lieu thereof the word "person";

And,

On page 3, section 27, line 35 after the words "parent or" by striking out the word "grandparent" and inserting in lieu thereof the word "custodian".

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

The yeas and nays having been ordered, they were taken **(Roll No. 462)**, and there were—yeas 66, nays 25, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Brown, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowan, Rowe, Skaff, Thompson, Toney, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Barrett, Hamrick, D. Kelly, J. Kelly, Martin, Pack, Paynter, Smith and Westfall.

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

The bill was then ordered to third reading.

S. B. 715, Decreasing and increasing existing items of appropriations from State Fund, General Revenue; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 716, Supplemental appropriation to DOE, WV BOE, Strategic Staff Development; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 717, Supplemental appropriation to Miscellaneous Boards and Commissions, Board of Medicine, Medical Licensing Board; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 718, Supplemental appropriation to Department of Administration, Travel Management, Aviation Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 719, Supplemental appropriation to DHS, Fire Commission, Fire Marshal Fees; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 720, Supplementing and amending appropriations to Executive, Governor's Office, Civil Contingent Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 722, Expiring funds to DEP, Division of Environmental Protection, Reclamation of Abandoned and Dilapidated Property Program Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 723, Making supplementary appropriation to Department of Agriculture, WV Spay Neuter Assistance Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 724, Making supplementary appropriation to DHS, Division of Corrections and Rehabilitation, Regional Jail and Correctional Facility Authority; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 725, Supplementing and amending appropriations to DHS, WV State Police; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

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

Com. Sub. for S. B. 2, Relating to unemployment benefits program,

Com. Sub. for S. B. 138, Relating to Board of Medicine composition,

Com. Sub. for S. B. 205, Expanding PEIA Finance Board membership,

S. B. 228, Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV,

Com. Sub. for S. B. 230, Relating generally to public employees grievance procedure,

Com. Sub. for S. B. 232, Relating to punishment for third offense felony,

Com. Sub. for S. B. 242, Restricting authority to prevent or limit owner's use of natural resources or real property in certain agricultural operations,

Com. Sub. for S. B. 246, Requiring newly constructed public schools and public schools with major improvements to have water bottle filling stations,

Com. Sub. for S. B. 262, Relating generally to financial institutions engaged in boycotts of energy companies,

Com. Sub. for S. B. 264, Relating to conservation districts law of WV,

Com. Sub. for S. B. 268, Creating exemption from compulsory school attendance for child who participates in learning pod or micro school,

Com. Sub. for S. B. 312, Authorization for Department of Revenue to promulgate legislative rules,

Com. Sub. for S. B. 334, Authorizing miscellaneous agencies and boards to promulgate rules,

Com. Sub. for S. B. 424, Relating generally to 2022 Farm Bill,

Com. Sub. for S. B. 434, Updating authority to airports for current operations,

Com. Sub. for S. B. 438, Relating generally to WV Security for Public Deposits Act,

Com. Sub. for S. B. 441, Providing confidentiality of video and other records of correctional juvenile facilities,

S. B. 442, Relating to WV Public Employee Retirement System,

Com. Sub. for S. B. 463, Best Interests of Child Protection Act of 2022,

Com. Sub. for S. B. 530, Encouraging public-private partnerships in transportation,

Com. Sub. for S. B. 533, Relating to funding for health sciences and medical schools in state,

S. B. 548, Authorizing Workforce WV employers to obtain employment classifications and work locations,

Com. Sub. for S. B. 552, Relating to tax sale process,

Com. Sub. for S. B. 568, Relating to health insurance loss ratio information,

Com. Sub. for S. B. 574, Relating to WV PEIA,

Com. Sub. for S. B. 582, Creating WV Workforce Resiliency Act,

Com. Sub. for S. B. 588, Relating to WV Rails to Trails Program,

Com. Sub. for S. B. 606, Relating to WV Medical Practice Act,

Com. Sub. for S. B. 609, Allowing DOH Commissioner to accept ownership of rented and leased equipment,

Com. Sub. for S. B. 610, Relating to duties, powers and responsibilities of DOT Secretary,

Com. Sub. for S. B. 611, Removing cap on bidder's contract bond

S. B. 617, Relating to qualifications for members of boards, commissions, and other entities,

Com. Sub. for S. B. 647, Prohibiting discrimination in organ donation process,

Com. Sub. for S. B. 653, Relating to public higher education governance,

Com. Sub. for S. B. 659, Relating to nonintoxicating beer, wine, and liquor licenses and requirements,

Com. Sub. for S. B. 662, Relating to creation, expansion, and authority of resort area district,

Com. Sub. for S. B. 668, Clarifying eligibility for probation and parole conditions for sex offenses,

S. B. 685, Relating to WV Real Estate License Act,

S. B. 686, Clarifying use of notes and bonds of WV Housing Development Fund,

S. B. 693, Clarifying meeting voting requirements for political party executive committees,

S. B. 711, Establishing alternative educational opportunities for elective course credit,

S. B. 714, Relating to tie votes by Coal Mine Safety and Technical Review Committee,

And,

S. B. 726, Relating to pre-trial diversion agreements and deferred prosecution agreements.

At 3:44 p.m., the House of Delegates recessed for fifteen minutes.

* * * * * * * *

Evening Session

* * * * * * * *

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

At 4:41 p.m., the House of Delegates adjourned until 9:00 a.m., Thursday, March 10, 2022.

Thursday, March 10, 2022

FIFTY-EIGHTH DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, March 9, 2022, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that S. B. 7, Com. Sub. for S. B. 71 and S. B. 693 on Second Reading, Special Calendar, had been transferred to the House Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 468, Creating Unborn Child with Down Syndrome Protection and Education Act,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 468) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate D. Jeffries, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 9th day of March, 2022, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

Com. Sub. for S. B. 419, Establishing pilot project to evaluate impact of certain post-substance use disorder residential treatments,

S. B. 448, Developing policies and procedures for Statewide Interoperability Executive Committee,

Com. Sub. for S. B. 520, Increasing financial penalties for ransomware attacks,

Com. Sub. for S. B. 523, Transferring oversight of Jobs Investment Trust Fund to WV Economic Development Authority,

Com. Sub. for S. B. 524, Placing duties and functions of certain boards and commissions under Department of Arts, Culture, and History,

Com. Sub. for S. B. 537, Providing additional firefighters and security guards for National Guard,

S. B. 542, Transferring Broadband Enhancement Council from Department of Commerce to Department of Economic Development,

S. B. 597, Relating to PSC underground facilities damage prevention and one-call system

Com. Sub. for S. B. 598, Establishing partnerships and aid for at-risk veterans to combat suicide,

S. B. 638, Changing hearing and notice provisions for failing or distressed public utilities,

And,

Com. Sub. for S. B. 650, Eliminating number of royalty owners required for utilization by operator for lawful use and development by co-tenants.

Messages from the Senate

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

Com. Sub. for H. B. 4113, Public Health definitions and powers of secretary and commissioner.

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

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

"ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-2. DEFINITIONS.

As used in this article:

(1) 'Basic public health services' means those services that are necessary to protect the health of the public; ~~The three areas of basic public health services are communicable and reportable disease prevention and control, community health promotion and environmental health protection~~

(2) 'Bureau' means the Bureau for Public Health in the department;

(3) 'Combined local board of health' means one form of organization for a local board of health and means a board of health serving any two or more counties or any county or counties and one or more municipalities within or partially within the county or counties;

(4) 'Commissioner' means the commissioner of the bureau, who is the state health officer;

(5) 'County board of health' means one form of organization for a local board of health and means a local board of health serving a single county;

(6) 'Department' means the West Virginia Department of Health and Human Resources;

(7) 'Director' or 'director of health' means the state health officer. Administratively within the department, the bureau through its commissioner carries out the public health functions of the department, unless otherwise assigned by the secretary;

(8) 'Essential public health services' means the core public health activities necessary to promote health and prevent disease, injury, and disability for the citizens of the state. The services include:

(A) Monitoring health status to identify community health problems;

(B) Diagnosing and investigating health problems and health hazards in the community;

(C) Informing, educating, and empowering people about health issues;

(D) Mobilizing community partnerships to identify and solve health problems;

(E) Developing policies and plans that support individual and community health efforts;

(F) Enforcing laws and rules that protect health and ensure safety;

(G) Uniting people with needed personal health services and assuring the provision of health care when it is otherwise not available;

(H) Promoting a competent public health and personal health care workforce;

(I) Evaluating the effectiveness, accessibility, and quality of personal and population-based health services; and

(J) Researching for new insights and innovative solutions to health problems;

~~(9) 'Licensing boards' means those boards charged with regulating an occupation, business or profession and on which the commissioner serves as a member~~

~~(10)~~ (9) 'Local board of health', 'local board', or 'board' means a board of health serving one or more counties or one or more municipalities or a combination thereof;

~~(11)~~ (10) 'Local health department' means the staff of the local board of health;

~~(12)~~ (11) 'Local health officer' means the physician with a current West Virginia license to practice medicine who supervises and directs the activities, services, staff, and facilities of the local health department and is appointed by the local board of health with approval by the commissioner;

~~(13)~~ (12) 'Municipal board of health' means one form of organization for a local board of health and means a board of health serving a single municipality;

~~(14)~~ (13) 'Performance-based standards' means generally accepted, objective standards such as rules or guidelines against which public health performance can be measured;

~~(15)~~ (14) 'Potential source of significant contamination' means a facility or activity that stores, uses, or produces substances or compounds with potential for significant contaminating impact if released into the source water of a public water supply;

~~(16) 'Program plan' or 'plan of operation' means the annual plan for each local board of health that must be submitted to the commissioner for approval~~

~~(17)~~ (15) 'Public groundwater supply source' means a primary source of water supply for a public water system which is directly drawn from a well, underground stream, underground reservoir, underground mine, or other primary source of water supplies which is found underneath the surface of the state;

~~(18)~~ (16) 'Public surface water supply source' means a primary source of water supply for a public water system which is directly drawn from rivers, streams, lakes, ponds, impoundments, or other primary sources of water supplies which are found on the surface of the state;

~~(19)~~ (17) 'Public surface water influenced groundwater supply source' means a source of water supply for a public water system which is directly drawn from an underground well, underground river or stream, underground reservoir, or underground mine, and the quantity and quality of the water in that underground supply source is heavily influenced, directly or indirectly, by the quantity and quality of surface water in the immediate area;

~~(20)~~ (18) 'Public water system' means:

(A) Any water supply or system which regularly supplies or offers to supply water for human consumption through pipes or other constructed conveyances, if serving at least an average of ~~twenty five~~ 25 individuals per day for at least ~~sixty~~ 60 days per year, or which has at least ~~fifteen~~ 15 service connections, and shall include:

(i) Any collection, treatment, storage, and distribution facilities under the control of the owner or operator of the system and used primarily in connection with the system; and

(ii) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system;

(B) A public water system does not include a system which meets all of the following conditions:

(i) Consists only of distribution and storage facilities and does not have any collection and treatment facilities;

(ii) Obtains all of its water from, but is not owned or operated by, a public water system which otherwise meets the definition;

(iii) Does not sell water to any person; and

(iv) Is not a carrier conveying passengers in interstate commerce;

~~(21)~~ (19) 'Public water utility' means a public water system which is regulated by the West Virginia Public Service Commission pursuant to the provisions of ~~chapter twenty-four~~ §24-1-1 *et seq.* of this code;

~~(22)~~ (20) 'Secretary' means the secretary of the department.

~~(23)~~ (21) 'Service area' means the territorial jurisdiction of a local board of health;

~~(24) 'State Advisory Council on Public Health' means the advisory body charged by this article with providing advice to the commissioner with respect to the provision of adequate public health services for all areas in the state;~~

~~(25) 'State Board of Health' means the secretary, notwithstanding any other provision of this code to the contrary, whenever and wherever in this code there is a reference to the State Board of Health~~

~~(26)~~ (22) 'Zone of critical concern' for a public surface water supply is a corridor along streams within a watershed that warrant more detailed scrutiny due to its proximity to the surface water intake and the intake's susceptibility to potential contaminants within that corridor. The zone of critical concern is determined using a mathematical model that accounts for stream flows, gradient, and area topography. The length of the zone of critical

concern is based on a five-hour time-of-travel of water in the streams to the water intake, plus an additional one-fourth mile below the water intake. The width of the zone of critical concern is ~~one thousand~~ 1000 feet measured horizontally from each bank of the principal stream and ~~five hundred~~ 500 feet measured horizontally from each bank of the tributaries draining into the principal stream.

§16-1-3. POWERS AND DUTIES OF THE SECRETARY.

(a) The secretary may establish a state public health system.

~~(b) All powers and duties of the director of health previously established by former section ten of this article that are not specifically included in this chapter as powers and duties of the commissioner are powers and duties of the secretary~~

~~(c)~~ (b) As necessary for the effective, efficient, and economical operation of the system, the secretary may from time to time delegate, assign, transfer, or combine responsibilities or duties to or among employees of the department.

~~(d)~~ (c) Within the limits of applicable federal law, the secretary may require every applicant for a license, permit, certificate of registration, or registration under this chapter to place his or her social security number on the application.

(d) The secretary may appoint advisory councils.

§16-1-4. PROPOSAL OF RULES BY THE SECRETARY.

(a) The secretary may propose legislative rules in accordance with the provisions of §29A-3-1 *et seq.* of this code that include: ~~are necessary and proper to effectuate the purposes of this chapter. The secretary may appoint or designate advisory councils of professionals in the areas of hospitals, nursing homes, barbers and beauticians, postmortem examinations, mental health and intellectual disability centers and any other areas necessary to advise the secretary on rules.~~

~~(b) The rules may include: but are not limited to, the regulation of~~

(1) Land usage endangering the public health: *Provided*, That no rules may be promulgated or enforced restricting the subdivision or development of any parcel of land within which the individual tracts, lots, or parcels exceed two acres each in total surface area and which individual tracts, lots, or parcels have an average frontage of not less than 150 feet even though the total surface area of the tract, lot, or parcel equals or exceeds two acres in total surface area, and which tracts are sold, leased, or utilized only as single-family dwelling units. Notwithstanding the provisions of this subsection, nothing in this section may be construed to abate the authority of the department to:

(A) Restrict the subdivision or development of a tract for any more intense or higher density occupancy than a single-family dwelling unit;

(B) Propose or enforce rules applicable to single-family dwelling units for single-family dwelling unit sanitary sewerage disposal systems; or

(C) Restrict any subdivision or development which might endanger the public health, the sanitary condition of streams, or sources of water supply;

(2) The sanitary condition of all institutions and schools, whether public or private, public conveyances, dairies, slaughterhouses, workshops, factories, labor camps, all other places open to the general public and inviting public patronage or public assembly, or tendering to the public any item for human consumption and places where trades or industries are conducted;

(3) Occupational and industrial health hazards, the sanitary conditions of streams, sources of water supply, sewerage facilities, and plumbing systems and the qualifications of personnel connected with any of those facilities, without regard to whether the supplies or systems are publicly or privately owned; and the design of all water systems, plumbing systems, sewerage systems,

sewage treatment plants, excreta disposal methods, and swimming pools in this state, whether publicly or privately owned;

(4) Safe drinking water, including:

(A) The maximum contaminant levels to which all public water systems must conform in order to prevent adverse effects on the health of individuals and, if appropriate, treatment techniques that reduce the contaminant or contaminants to a level which will not adversely affect the health of the consumer. The rule shall contain provisions to protect and prevent contamination of wellheads and well fields used by public water supplies so that contaminants do not reach a level that would adversely affect the health of the consumer;

(B) The minimum requirements for: sampling and testing; system operation; public notification by a public water system on being granted a variance or exemption, or upon failure to comply with specific requirements of this section and rules promulgated under this section; record keeping; laboratory certification; as well as procedures and conditions for granting variances and exemptions to public water systems from state public water systems rules; and

(C) The requirements covering the production and distribution of bottled drinking water and may establish requirements governing the taste, odor, appearance, and other consumer acceptability parameters of drinking water;

(5) Food and drug standards, including cleanliness, proscription of additives, proscription of sale, and other requirements in accordance with §16-7-1 *et seq.* of this code as are necessary to protect the health of the citizens of this state;

(6) The training and examination requirements for emergency medical service attendants and emergency medical care technician-paramedics; the designation of the health care facilities, health care services, and the industries and occupations in the state that must have emergency medical service attendants and emergency medical care technician-paramedics employed, and the

availability, communications and equipment requirements with respect to emergency medical service attendants and to emergency medical care technician-paramedics. Any regulation of emergency medical service attendants and emergency medical care technician-paramedics may not exceed the provisions of §16-4C-1 *et seq.* of this code;

(7) The health and sanitary conditions of establishments commonly referred to as bed and breakfast inns. For purposes of this article, 'bed and breakfast inn' means an establishment providing sleeping accommodations and, at a minimum, a breakfast for a fee. The secretary may not require an owner of a bed and breakfast providing sleeping accommodations of six or fewer rooms to install a restaurant-style or commercial food service facility. The secretary may not require an owner of a bed and breakfast providing sleeping accommodations of more than six rooms to install a restaurant-type or commercial food service facility if the entire bed and breakfast inn or those rooms numbering above six are used on an aggregate of two weeks or less per year;

(8) Fees for services provided by the Bureau for Public Health including, but not limited to, laboratory service fees, environmental health service fees, health facility fees, and permit fees;

(9) The collection of data on health status, the health system, and the costs of health care;

~~(c) The secretary shall propose a rule for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code for~~ (10) The distribution of state aid to local health departments and basic public health services funds ~~The rule shall include the following provisions:~~ in accordance with:

(A) Base allocation amount for each county;

(B) Establishment and administration of an emergency fund of no more than two percent of the total annual funds of which unused amounts are to be distributed back to local boards of health at the end of each fiscal year;

(C) A calculation of funds utilized for state support of local health departments;

(D) Distribution of remaining funds on a per capita weighted population approach which factors coefficients for poverty, health status, population density, and health department interventions for each county and a coefficient which encourages counties to merge in the provision of public health services; and

~~A hold harmless provision to provide that each local health department receives no less in state support for a period of four years beginning in the 2009 budget year;~~

(E) The provisions of this subdivision are in effect until the performance standard funding formula is created and established by legislative rule.

~~The Legislature finds that an emergency exists and, therefore, the secretary shall file an emergency rule to implement the provisions of this section pursuant to the provisions §29A-3-15 of this code. The emergency rule is subject to the prior approval of the Legislative Oversight Commission on Health and Human Resources Accountability prior to filing with the Secretary of State.~~

~~(d) The secretary may propose rules for legislative approval that may include the regulation of other health related matters which the department is authorized to supervise and for which the rule-making authority has not been otherwise assigned~~

~~(e)~~ (b) The secretary shall not review any repair or modernization of equipment at a public pool facility as long as such activity does not change the scope of the facility or its current use and such activity does not exceed $25,000 in planned cost.

§16-1-5. STATE HEALTH OFFICER; APPOINTMENT; QUALIFICATIONS; TERM.

The Commissioner of the Bureau for Public Health is the state health officer and shall be appointed by the secretary. The commissioner shall be ~~a physician~~ licensed under the laws of this state to practice medicine or a person holding a doctorate degree in

public health administration. ~~The commissioner shall have not less than four years' experience in health services administration or a related field~~ The commissioner serves at the will and pleasure of the secretary and shall not be actively engaged or employed in any other business, vocation, or employment, serving full-time in the duties of the office as prescribed by this article.

§16-1-6. POWERS AND DUTIES OF THE COMMISSIONER.

(a) The commissioner is the chief executive, administrative and fiscal officer of the Bureau for Public Health and has the following powers and duties:

~~(a)~~ (1) To supervise and direct the fiscal and administrative matters of the bureau, and in that regard and in accordance with law, employ, fix the compensation of, and discharge all persons necessary for the proper execution of the public health laws of this state and the efficient and proper discharge of the duties imposed upon, and execution of powers vested in the commissioner by law and as directed by the secretary;

~~(b)~~ (2) To enforce all laws of this state concerning public health. ~~to that end,~~

(3) ~~The commissioner shall make, or cause to be made, investigations and inquiries respecting~~ To investigate the cause of disease, especially of epidemics and endemic conditions, and the means of prevention, suppression, or control of those conditions; the source of sickness and mortality, ~~and~~ the effects of environment, employment, habits, and circumstances of life on the public health.

~~The commissioner shall further make, or cause to be made, inspections and examinations of~~ (4) To inspect and examine food, drink, and drugs offered for sale or public consumption in the manner the commissioner considers necessary to protect the public health and shall report all violations of laws and rules relating to the law to the prosecuting attorney of the county in which the violations occur;

~~(c)~~ (5) To make complaint or cause proceedings to be instituted against any person, corporation, or other entity for the violation of any public health law before any court or agency, without being required to give security for costs; the action may be taken without the sanction of the prosecuting attorney of the county in which the proceedings are instituted or to which the proceedings relate;

~~(d)~~ (6) To promote the provision of essential public health services to citizens of this state;

~~(e)~~ (7) To monitor the ~~administration,~~ operation and coordination of the local boards of health and local health officers;

~~(f)~~ (8) To develop and maintain a state plan of operation that sets forth the needs of the state in the areas of public health; goals and objectives for meeting those needs; methods for achieving the stated goals and objectives; and needed personnel, funds, and authority for achieving the goals and objectives;

~~(g)~~ (9) To collect data as may be required to foster knowledge on the citizenry's health status, the health system, and costs of health care;

~~(h)~~ (10) To delegate to any appointee, assistant, or employee any and all powers and duties vested in the commissioner, including, but not limited to, the power to execute contracts and agreements in the name of the bureau: *Provided,* That the commissioner is responsible for the acts of his or her appointees, assistants, and employees;

~~(i)~~ (11) To transfer ~~at the direction of the secretary, notwithstanding other provisions of this code~~ any patient or resident between hospitals and facilities ~~under the control of the commissioner~~ and, by agreement with the state Commissioner of Corrections and Rehabilitation and otherwise in accord with law, accept a transfer of a resident of a facility under the jurisdiction of the state Commissioner of Corrections and Rehabilitation;

~~(j)~~ (12) To make periodic reports to the Governor and to the Legislature relative to specific subject areas of public health, ~~the state facilities under the supervision of the commissioner,~~ or other

matters affecting the public health of the people of the state; ~~at the direction of the secretary;~~

~~(k) At the direction of the secretary~~ (13) To accept and use for the benefit of the health of the people of this state, any gift or devise of any property or thing which is lawfully given: *Provided,* That if any gift is for a specific purpose ~~or for a particular state hospital or facility it~~ shall be used as specified. Any profit which may arise from any gift or devise of any property or thing shall be deposited in a special revenue fund with the State Treasurer and shall be used only as specified by the donor or donors;

~~(l)~~ (14) To acquire by condemnation or otherwise any interest, right, privilege, land, or improvement and hold title to the land or improvement, for the use or benefit of the state or a state hospital or facility, ~~and, by and with the consent of the Governor, and at the direction of the secretary~~, to sell, exchange or otherwise convey any interest, right, privilege, land, or improvement acquired or held by the state, state hospital, or state facility ~~and deposit the proceeds from the sale, exchange or other conveyance into the hospital services revenue account.~~ Any condemnation proceedings shall be conducted pursuant to ~~chapter fifty four~~ §54-1-1 *et seq.* of this code;.

~~(m)~~ (15) To inspect and enforce rules to control the sanitary conditions of and license all institutions and health care facilities as set forth in this chapter, including, but not limited to, schools, whether public or private, public conveyances, dairies, slaughterhouses, workshops, factories, labor camps, places of entertainment, hotels, motels, tourist camps, all other places open to the general public and inviting public patronage or public assembly, or tendering to the public any item for human consumption and places where trades or industries are conducted;

~~(n)~~ (16) To make inspections, conduct hearings, and to enforce the legislative rules concerning occupational and industrial health hazards, the sanitary condition of streams, sources of water supply, sewerage facilities, and plumbing systems, and the qualifications of personnel connected with the supplies, facilities or systems without regard to whether they are publicly or privately owned; and

to make inspections, conduct hearings and enforce the legislative rules concerning the design of chlorination and filtration facilities and swimming pools;

~~(o) To provide in accordance with this subdivision and the definitions and other provisions of article one a, chapter twenty-seven 27-1A-1 *et seq.* of this code, and as directed by the secretary, for a comprehensive program for the care, treatment and rehabilitation of alcoholics and drug abusers; for research into the cause and prevention of alcoholism and drug abuse; for the training and employment of personnel to provide the requisite rehabilitation of alcoholics and drug abusers; and for the education of the public concerning alcoholism and drug abuse~~

~~(p)~~ (17) To provide in accordance with this subdivision for a program for the care, treatment, and rehabilitation of the parents of sudden infant death syndrome victims; for the training and employment of personnel to provide the requisite rehabilitation of parents of sudden infant death syndrome victims; for the education of the public concerning sudden infant death syndrome; ~~for the responsibility of reporting to the Legislature on a quarterly basis the incidence of sudden infant death syndrome cases occurring in West Virginia;~~ for the education of police, employees, and volunteers of all emergency services concerning sudden infant death syndrome; ~~for the state sudden infant death syndrome advisory council to develop regional family support groups to provide peer support to families of sudden infant death syndrome victims;~~ and for requesting appropriation of funds in both federal and state budgets to fund the sudden infant death syndrome program;

~~(q)~~ (18) To establish and maintain a state hygienic laboratory as an aid in performing the duties imposed upon the commissioner, and to employ ~~chemists, bacteriologists, and other~~ employees that may be necessary to properly operate the laboratory. The commissioner may establish branches of the state laboratory ~~at any points~~ within the state that are necessary in the interest of the public health;

~~(r) To establish and fund a uniform health professionals data system to collect and maintain uniform data on all health professionals in the state. This data shall include, but not be limited to, the following information about each health professional: His or her name, profession, the area of the state where he or she is practicing, his or her educational background, his or her employer's name, and number of years practicing within the profession. The boards provided for in articles three, four, four-a, five, seven, seven-a, fourteen, fourteen-a, fifteen, sixteen, twenty, twenty-one, twenty-three, twenty-eight, thirty-one, thirty-two, thirty-four, thirty-five, thirty-six and thirty-seven, chapter thirty of this code shall annually collect the data on health professionals under their jurisdiction in the format prescribed by the commissioner. Each board shall pay to the bureau annually, an amount determined by the commissioner to be a pro rata portion, for anticipated expenses to establish and operate the uniform health professionals data system required by this section. The commissioner may standardize data collection methods if necessary to implement the provisions of this section. The commissioner shall publish annually and make available, upon request, a report setting forth the data which was collected the previous year; areas of the state which the collected data indicates have a shortage of health professionals; and projections, based upon the collected data, as to the need for more health professionals in certain areas~~

~~(s)~~ (19) To expend, for the purpose of performing the public health duties imposed on the bureau, or authorized by law, any sums appropriated by the Legislature. The commissioner may make advance payments to public and nonprofit health services providers when the commissioner determines it is necessary for the initiation or continuation of public health services. The advance payments, being in derogation of the principle of payment only after receipt of goods or services, shall be authorized only after serious consideration by the commissioner of the necessity of the advance payments and shall be for a period no greater than ~~ninety~~ 90 days in advance of rendition of service or receipt of goods and continuation of health services; ~~and~~

~~(t)~~ (20) To exercise all other powers delegated to the commissioner by the secretary or by this chapter or otherwise in this code, to enforce all health laws, and to pursue all other activities necessary and incident to the authority and area of concern entrusted to the bureau or the commissioner.

(b) The commissioner shall establish within the Bureau for Public Health, a Center for Local Public Health. The center shall:

(1) Enhance the quality and availability of essential public health services throughout the state provided by local boards of health;

(2) Provide technical assistance and consultation to a local board of health agency;

(3) Allocate and distribute funding based upon performance based standards;

(4) Provide technical assistance to the local public health workforce;

(5) Facilitate bi-directional communication;

(6) Establish a uniform state-wide computer system for the reporting of public health data;

(7) Inventory the services provided by a local boards of health;

(8) Support sharing of services between local boards of health;

(9) Create a performance-based evaluation system based on standards established by legislative rule;

(10) Provide a quarterly training to ensure consistency in the application of state laws, legislative rules, and local health department rules; and

(11) Enforce compliance with performance standards.

§16-1-7. COMMISSIONER SERVING ON ADVISORY BOARDS.

(A) ~~Effective July 1, 2012, the commissioner serves on the West Virginia Board of Medicine, provided in §30-3-1 *et seq.* of this code.~~

~~(b) Effective July 1, 2012~~ The commissioner serves on the following advisory councils, boards, and commissions:

(1) The Advisory Committee on Cancer (Cancer Registry);

(2) The Air Quality Board;

(3) The Appalachian States Low-level Radioactive Waste Commission;

(4) The Child Fatality Review Team;

(5) The Childhood Immunization Advisory Committee;

(6) The Early Intervention Coordinating Council;

(7) The Interagency Council on Osteoporosis;

(8) The Sewage Advisory Board;

(9) The State Emergency Response Commission;

(10) The State Groundwater Coordinating Committee;

(11) The Water Development Authority;

(12) The West Virginia Commission for the Deaf and Hard of Hearing;

(13) The West Virginia Infrastructure and Jobs Development Council; and

(14) Any other advisory council, board, or commission as assigned by the secretary except for business, professional, or occupational licensing boards.

~~(c)~~ (b) ~~Notwithstanding any other provision of this code to the contrary,~~ The commissioner may, ~~at his or her discretion~~ designate in writing a representative to serve in his or her stead at the

meetings and in the duties of all boards and commissions on which the commissioner is designated as an ex officio member. The appropriately designated representative ~~or proxy~~ acts with the full ~~power and~~ authority of the commissioner in voting, ~~acting upon matters concerning the public health and welfare~~ and other business that is properly the duty of any board or commission. The representative serves ~~as proxy~~ at the commissioner's will and pleasure. ~~The provisions of this section do not apply to the West Virginia Board of Medicine, the Air Quality Board, or other board, commission, or body on which the commissioner is designated by this code as chairman ex officio, secretary ex officio, or a board, commission, or body on which the commissioner is designated by this code as being that person whose signature must appear on licenses, minutes, or other documents necessary to carry out the intents and purposes of the board, commission, or body~~

§16-1-8. DUTIES AND POWERS OF THE COMMISSIONER; AUTHORIZATION TO COOPERATE WITH ANY STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES AND ANY FEDERAL GOVERNMENT AGENCIES IN HOSPITAL AND OTHER HEALTH FACILITY PROGRAMS.

[Repealed].

§16-1-10. DISPOSITION OF PERMIT, LICENSE, OR REGISTRATION FEES RECEIVED BY THE COMMISSIONER; REPORT TO AUDITOR; HEALTH FACILITY LICENSING ACCOUNT.

(a) The commissioner shall receive and account for all moneys required to be paid as fees to the bureau for permits, licenses, or registrations, pursuant to the provisions of this code and legislative rules.

(b) Subject to the provisions set forth in §12-2-2 of this code, there is continued in the State Treasury a separate account which shall be designated 'the Health Facility Licensing Account.' The commissioner shall deposit to the Health Facility Licensing

Account all health facility licensing fees and may spend the moneys deposited in the health facility licensing account in accordance with the laws of this state to implement activities of health facility licensing. As part of the annual state budget, the Legislature shall appropriate for health facility licensure all moneys deposited in the Health Facility Licensing Account.

Any remaining balance including accrued interest in the account at the end of any fiscal year shall not revert to the General Revenue Fund, but shall remain in the account, and the moneys may be spent after appropriation by the Legislature in ensuing fiscal years. ~~The commissioner shall make an annual report to the Legislature on the health facility licensing account, including the previous fiscal year's expenditures and projected expenditures for the next fiscal year~~

§16-1-11. DISPOSITION OF FEES FOR SERVICES CHARGED AND RECEIVED BY THE COMMISSIONER; HEALTH SERVICES FUND.

(a) ~~Notwithstanding any other provisions of this chapter,~~ The commissioner may assess and charge reasonable fees for the provision of services provided by the bureau: *Provided,* That no individual may be denied health care services by the bureau because of the inability of the individual to pay for services. ~~when services are provided to similarly situated individuals who have the ability to pay for them~~ The fees shall be deposited into a special revolving fund in the State Treasury designated the 'Health Services Fund.'

(b) Any balance including accrued interest in the special revolving fund at the end of any fiscal year shall not revert to the General Revenue Fund but shall remain in the fund for use by the commissioner for funding health programs in the ensuing fiscal years.

~~(c) The commissioner may authorize reasonable fees for the provision of services by local boards of health as created in article two of this chapter: *Provided,* That no individual may be denied health care services by the local health department because of the~~

~~inability of the individual to pay for services when services are provided to similarly situated individuals who have the ability to pay for them. The fees shall be deposited into the local board of health account for use by the local board for funding health programs. The commissioner shall establish the fees on a sliding fee basis determined by an individual's ability to pay: *Provided, however,* That the local board of health may submit a request through the administrator for third party reimbursement where the request is appropriate: *Provided further,* That Local boards of health that establish fees shall annually submit a schedule of fees, a sliding fee scale and an accounting of amounts collected to the commissioner as part of its program plan or plan of operation.~~

~~(d) The secretary shall propose legislative rules in accordance with article three, chapter twenty-nine-a of this code, setting forth the fees established, assessed, and charged by the commissioner~~

§16-1-12. RECEIPT AND DISBURSEMENT OF FEDERAL AID AND OTHER MONEYS FOR HEALTH PURPOSES.

(a) The commissioner ~~at the direction of the secretary,~~ may accept, receive, and receipt for federal moneys and other moneys, either public or private, for and on behalf of this state or any county or municipality of this state, for public health purposes, or for the establishment or construction of public health facilities, whether the work is to be done by the state, or by the county or municipality, or jointly, aided by grants of aid from the United States, upon such terms and conditions as are, or may be, prescribed by the laws of the United States and regulations made thereunder. The commissioner may act as the agent of the state or any of its agencies, or of any county or municipality of this state, upon the request of any agency of the state or of any county or municipality, in accepting, receiving and receipting for the moneys in its behalf, for public health facilities financed either, in whole or in part, by federal moneys.

(b) The state, any agency of the state, or any county or municipality may, designate the commissioner as its agent for the purposes set forth in subsection (a) of this section and the agency,

county, or municipality may enter into an agreement with the commissioner prescribing the terms and conditions of the agency in accordance with federal laws and regulations, and with the laws of this state. The moneys paid over by the United States government shall be retained by the state or paid over to the counties or municipalities under the terms and conditions imposed by the United States government in making the grants.

(c) All moneys accepted for disbursement pursuant to this section shall be deposited by ~~the secretary or~~ the commissioner in the State Treasury, and unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purpose for which the moneys were made available, and held by the state in trust for those purposes. All moneys are hereby appropriated for the purposes for which the moneys were made available and shall be expended in accordance with federal laws and regulations and with the laws of this state. The commissioner may, whether acting for the state or one of its agencies, or as the agency for any county or municipality, when requested by the United States government or any agency or department of the United States government, or when requested by the state, a state agency, or any county or municipality for which the moneys have been made available, disburse the moneys for the designated purposes, but this shall not include any other authorized method of disbursement.

§16-1-13. HOSPITAL SERVICES REVENUE ACCOUNT; HEALTH FACILITIES LONG-RANGE PLANS.

[Repealed].

§16-1-14. TRAINING OF EMPLOYEES.

~~To insure adequate standards of public service,~~The commissioner may provide technical and specialized instruction for employees of the bureau.

~~If upon review of the personnel records of any employee of the bureau, the commissioner is of the opinion that it would be in the best interest of the bureau to provide the employee with additional~~

~~training or instruction, not to exceed nine months in any four-year period, in the field or vocation in which the employee is engaged, the commissioner may, upon approval of the secretary, direct that the employee obtain the additional training or instruction at any place the commissioner considers suitable. Designated attendance of the employee shall be compensated for as a part of regular employment~~ The commissioner ~~is further authorized to~~ may pay out of federal funds and such state funds as are available to match such federal funds, any required tuition or enrollment fees.

§16-1-21. CREATION OF DIABETES ACTION PLAN.

[Repealed].

ARTICLE 2. LOCAL BOARDS OF HEALTH.

§16-2-2. DEFINITIONS.

Unless the context ~~in which~~ used clearly requires a different meaning, as used in this article:

'Appointing authority' means the county commission or municipality, or combination thereof, that authorized the creation or combination of the local board of health, in whatever form it presently exists;

'Basic public health services' means those services that are necessary to protect the health of the public and that a local board of health must provide; ~~The three areas of basic public health services are communicable and reportable disease prevention and control, community health promotion, and environmental health protection;~~

'Bureau' means the Bureau for Public Health in the Department of Health and Human Resources;

'Clinical and categorical programs' means those services provided to individuals of specified populations and usually focus on health promotion or disease prevention. These services are not considered comprehensive health care but focus on specific health

issues such as breast and cervical cancer, prenatal and pediatric health services, and home health services;

'Combined local board of health' is one form of organization for a local board of health and means a board of health serving any two or more counties or any county or counties and one or more municipalities within or partially within the county or counties;

'Commissioner' means the Commissioner of the Bureau for Public Health, who is the state health officer;

'Communicable and reportable disease prevention and control' ~~is one of three areas of basic public health services each local board of health must offer. Services shall include~~ means disease surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and prevention and control of ~~rabies, sexually transmitted diseases, vaccine preventable diseases, HIV/AIDS, tuberculosis, and other~~ communicable and reportable diseases;

'Community health promotion' ~~is one of three areas of basic public health services each local board of health must offer. Services shall include~~ mean assessing and reporting community health needs to improve health status, facilitating community partnerships including identifying the community's priority health needs, mobilization of a community around identified priorities, and monitoring the progress of community health education services;

'County board of health' is one form of organization for a local board of health and means a local board of health serving a single county;

'Department' means the West Virginia Department of Health and Human Resources;

~~'Director' or 'director of health' means the state health officer. Administratively within the department, the Bureau for Public Health through its commissioner carries out the public health function of the department, unless otherwise assigned by the secretary;~~

'Enforcement activity' means the implementation or enforcement of applicable state rules, local rules, and local health department rules;

'Enhanced public health services' means services that focus on health promotion activities to address a major health problem in a community, are targeted to a particular population and assist individuals in this population to access the health care system; ~~such as lead and radon abatement for indoor air quality and positive pregnancy tracking. Enhanced public health services are services a local health department may offer;~~

'Environmental health protection' ~~is one of three areas of basic public health services each local board of health must offer. Services shall include~~ means efforts to protect the community from environmental health risks including, inspection of housing, institutions, recreational facilities, sewage, and wastewater facilities; inspection and sampling of drinking water facilities; and response to disease outbreaks or disasters;

'Guidance' means providing advice to a person, the public, a business, school board, or governmental entity regarding a public health issue or matter. Guidance is not a health order;

'Health order' means an order issued by the local health officer or local health board to protect the public health of the citizens by directing an individual or a discreet group of individuals to take a specific action to protect the health of the public or stop the spread of a communicable disease;

'Imminent public health emergency' means any immediate acute threat, hazard, or danger to the health of the population of the jurisdiction, whether specific or general, whether or not officially declared;

'Local board of health', 'local board', or 'board' means a board of health serving one or more counties or one or more municipalities or a combination thereof;

'Local health department' means the staff of the local board of health;

'Local health department rule' means a rule issued by the local board of health that has been approved by the appointing authority or was adopted prior to March 4, 2021, or a rule issued by the local board of health that may immediately go into effect because of an imminent public health emergency under §16-2-1(b)(3)(H) of this code;

'Local health officer' means the individual physician with a current West Virginia license to practice medicine or a licensed advanced practice registered nurse that has the ability to independently practice who supervises and directs the activities of the local health department services, staff and facilities and is appointed by the local board of health ~~with approval by the commissioner~~;

'Local rule' means an order adopted by a county commission or an ordinance adopted by a city that properly directs the local health department to implement or enforce the order or ordinance;

'Municipal board of health' is one form of organization for a local board of health and means a board of health serving a single municipality;

'Performance-based standards' means generally accepted, objective standards such as rules or guidelines against which a local health department's level of performance can be measured;

'Primary care services' means health care services, including medical care, that emphasize first contact patient care and assume overall and ongoing responsibility for the patient in health maintenance and treatment of disease. Primary care services are services that local boards of health may offer if the board has determined that an unmet need for primary care services exists in its service area. Basic public health services funding may not be used to support these services;

~~'Program plan' or 'plan of operation' means the annual plan for each local board of health that must be submitted to the commissioner for approval;~~

'Secretary' means the Secretary of the Department of Health and Human Resources; ~~and~~

'Service area' means the territorial jurisdiction of the local board of health; and

'State Rule' means a state statute, legislative rule promulgated by a state agency, or an order of the secretary relating to public health that is to be enforced by a local health department.

§16-2-10. LOCAL BOARD OF HEALTH; MEETINGS; ATTENDANCE; BYLAWS; QUORUM; CHAIRPERSON SELECTION, POWERS AND DUTIES.

(a) ~~Each~~ A local board of health ~~may~~ shall meet as often as necessary to orderly and efficiently execute its duties and exercise its powers: ~~*Provided,* That in a service area having a population of less than thirty thousand residents, the board shall meet no fewer than four times per year and in a service area having a population of more than thirty thousand residents, the board shall meet~~ but, no fewer than six times per year. Members of a local board of health shall attend board meetings in compliance with attendance policies established by its bylaws or rules.

(b) ~~Each~~ A local board of health ~~is authorized to and~~ shall adopt and may amend bylaws or rules governing the time and place of its regular meetings, procedures, and method of conducting its meetings. ~~including quorum, meeting attendance policies, requirements for written minutes and board actions as public records, duties and election process for officers, process for filling board vacancies, number, duties, tenure and eligibility of members, and any other matters affecting how the board is organized to perform its duties.~~ A quorum of the board for transacting business is a simple majority of the constituent membership of the board.

(c) ~~Each~~ A local board of health, pursuant to its bylaws, shall elect from its members a chairperson. The chairperson shall serve for a term of one year and may be reelected for additional terms. The chairperson may, on behalf of the board, sign documents, execute contracts, and otherwise act for and in the name of the

board in all matters within its lawful powers and as duly authorized by a majority of the board members.

§16-2-11. LOCAL BOARD OF HEALTH; POWERS AND DUTIES.

(a) ~~Each~~ A local board of health created, established, and operated pursuant to the provisions of this article shall:

(1) Provide the following basic public health services and programs in accordance with state public health performance-based standards:

~~(i)~~ (A) Community health promotion including assessing and reporting community health needs to improve health status, facilitating community partnerships including identifying the community's priority health needs, mobilization of a community around identified priorities, and monitoring the progress of community health education services;

~~(ii)~~ (B) Environmental health protection including the promoting and maintaining of clean and safe air, water, food, and facilities, and the administering of public health laws as specified by the commissioner as to general sanitation, the sanitation of public drinking water, sewage and wastewater, food and milk, and the sanitation of housing, institutions, and recreation; and

~~(iii)~~ (C) Communicable or reportable disease prevention and control including disease surveillance, case investigation and follow-up, outbreak investigation, response to epidemics, and prevention and control of rabies, sexually transmitted diseases, vaccine preventable diseases, HIV/AIDS, tuberculosis, and other communicable and reportable diseases;

(D) Immunizations; and

(E) Threat preparedness.

~~(2) Appoint a local health officer to serve at the will and pleasure of the local board of health with approval of the commissioner;~~

~~(3) Submit a general plan of operation to the commissioner for approval, if it receives any state or federal money for health purposes. This program plan shall be submitted annually and comply with provisions of the local board of health standards administrative rule;~~

~~(4)~~ (2) Provide equipment and facilities for the local health department that are in compliance with federal and state law;

~~(5)~~ (3) Permit the commissioner to act by and through it, as needed. The commissioner may enforce all public health laws of this state, the rules and orders of the secretary, any county commission orders or municipal ordinances of the board's service area relating to public health, and the rules and orders of the local board within the service area of a local board. The commissioner may enforce these laws, rules, and orders when, in the opinion of the commissioner, a public health emergency exists or when the local board fails or refuses to enforce public health laws and rules necessary to prevent and control the spread of a communicable or reportable disease dangerous to the public health. The expenses incurred shall be charged against the counties or municipalities concerned;

~~(6)~~ (4) Deposit all moneys and collected fees into an account designated for local board of health purposes. The moneys for a municipal board of health shall be deposited with the municipal treasury in the service area. The moneys for a county board of health shall be deposited with the county treasury in the service area. The moneys for a combined local board of health shall be deposited in an account as designated in the plan of combination: *Provided*, That nothing contained in this subsection is intended to conflict with the provisions of §16-1-1 *et seq.* of this code;

~~(7)~~ (5) Submit vouchers or other instruments approved by the board and signed by the local health officer or designated representative to the county or municipal treasurer for payment of necessary and reasonable expenditures from the county or municipal public health funds: *Provided*, That a combined local board of health shall draw upon its public health funds account in the manner designated in the plan of combination;

~~(8)~~ (6) Participate in audits, be in compliance with tax procedures required by the state, and annually develop a budget for the next fiscal year;

~~(9)~~ (7) Perform public health duties assigned by order of a county commission or by municipal ordinance consistent with state public health laws; ~~and~~

~~(10)~~ (8) Enforce the public health laws of this state and any other laws of this state applicable to the local board; and

(9) Create by rule a fee schedule, as approved by the appointing authority, for those environmental services it provides that are not established by state code.

(b) ~~Each~~ A local board of health ~~created, established, and operated pursuant to the provisions of this article~~ may:

(1) Provide primary care services, clinical and categorical programs, and enhanced public health services;

(2) Employ or contract with any technical, administrative, clerical, or other persons, to serve as needed and at the will and pleasure of the local board of health. Staff and any contractors providing services to the board shall comply with applicable West Virginia certification and licensure requirements. Eligible staff employed by the board shall be covered by the rules of the Division of Personnel under §29-10-6 of this code. However, any local board of health may, in the alternative and with the consent and approval of the appointing authority, establish and adopt a merit system for its eligible employees. The merit system may be similar to the state merit system and may be established by the local board by its order, subject to the approval of the appointing authority, adopting and making applicable to the local health department all, or any portion of any order, rule, standard, or compensation rate in effect in the state merit system as may be desired and as is properly applicable;

(3) (A) Adopt and promulgate and from time to time amend local health department rules consistent with state rules, that are necessary and proper for the protection of the general health of the

service area and the prevention of the introduction, propagation, and spread of disease.

(B) The commissioner shall establish a procedure by which adverse determinations by local health departments may be appealed, unless otherwise provided for, for the purpose of ensuring a consistent interpretation of state rules.

(C) When local health department rules are adopted, promulgated, or amended, the local board of health shall place notice in the State Register and on their organization's web page setting forth a notice of proposed action, including the text of the new local health department rule or the amendment and the date, time, and place for receipt of public comment.

(D) All local health department rules shall be approved, disapproved, or amended and approved by the county commission or appointing authority within 30 days of approval from the local board of health, and any local health department rule on which the appointing authority has taken no action within 30 days shall be void: *Provided*, That a local health department rule issued in response to an imminent public health emergency under the provisions of paragraph (H) of this subdivision may have immediate force and effect subject to the limitations set forth therein.

(E) All local health department rules of a combined local board of health shall be approved, disapproved, or amended and approved by each appointing authority within 30 days of approval from the combined local board of health. If one appointing authority approves and another other does not approve a local health department rule from a combined local board health department, the local health department rule is only in effect in the jurisdiction of the appointing authority which approved the local health department rule: *Provided*, That a local health department rule issued in response to an imminent public health emergency under the provisions of paragraph (H) of this subdivision may have immediate force and effect subject to the limitations set forth therein.

(F) An approved local health department rule shall be filed with the clerk of the county commission or the clerk or the recorder of the municipality, or both, and shall be kept by the clerk or recording officer in a separate book as public records.

(G) A local health department rule currently in effect on March 4, 2021, is not subject to approval, unless amended, from the county commission or appointing authority.

(H) If there is an imminent public health emergency, approval of the county commission or appointing authority is not necessary before a local health department rule goes into effect but shall be approved or disapproved by the county commission or appointing authority within 30 days after the local health department rules are effective, and any rule on which the appointing authority has taken no action within 30 days shall be void;

(4) Accept, receive, and receipt for money or property from any federal, state, or local governmental agency, from any other public source or from any private source, to be used for public health purposes or for the establishment or construction of public health facilities;

(5) Assess, charge, and collect fees for permits and licenses for the provision of public health services: *Provided*, That permits and licenses required for agricultural activities may not be assessed, charged, or collected: *Provided, however*, That a local board of health may assess, charge, and collect all of the expenses of inspection of the physical plant and facilities of any distributor, producer, or pasteurizer of milk whose milk distribution, production, or pasteurization facilities are located outside this state but who sells or distributes in the state, or transports, causes, or permits to be transported into this state, milk or milk products for resale, use or consumption in the state and in the service area of the local board of health. A local board of health may not assess, charge, and collect the expenses of inspection if the physical plant and facilities are regularly inspected by another agency of this state or its governmental subdivisions or by an agency of another state or its governmental subdivisions certified as an approved inspection agency by the commissioner. No more than one local

board of health may act as the regular inspection agency of the physical plant and facilities; when two or more include an inspection of the physical plant and facilities in a regular schedule, the commissioner shall designate one as the regular inspection agency;

(6) ~~Assess, charge, and collect fees for services provided by the local health department: *Provided*, That fees for services shall be submitted to and approved by the commissioner: *Provided, however*, That a~~ A local health department may bill health care service fees to a payor which includes, but is not limited to, Medicaid, a Medicaid Managed Care Organization, and the Public Employees Insurance Agency for medical services provided: *Provided further*, That health care service fees billed by a local health department are not subject to commissioner approval and may be at the payor's maximum allowable rate;

(7) Contract for payment with any municipality, county, or board of education, for the provision of local health services or for the use of public health facilities. Any contract shall be in writing and permit provision of services or use of facilities for a period not to exceed one fiscal year. The written contract may include provisions for annual renewal by agreement of the parties; and

(8) Retain and make available child safety car seats, collect rental and security deposit fees for the expenses of retaining and making available child safety car seats, and conduct public education activities concerning the use and preventing the misuse of child safety car seats: *Provided*, That this subsection is not intended to conflict with the provisions of §17C-15-46 of this code: *Provided, however*, That any local board of health offering a child safety car seat program or employee or agent of a local board of health is immune from civil or criminal liability in any action relating to the improper use, malfunction, or inadequate maintenance of the child safety car seat and in any action relating to the improper placement, maintenance, or securing of a child in a child safety car seat.

(c) The local boards of health are charged with protecting the health and safety, as well as promoting the interests of the citizens

of West Virginia. All state funds appropriated by the Legislature for the benefit of local boards of health shall be used for provision of basic public health services.

(d) If the Governor declares a statewide public health emergency, the state health officer may develop emergency policies and guidelines that each of the local health departments responding to the emergency must comply with in response to the public health emergency.

§16-2-12. LOCAL HEALTH OFFICER; TERM OF APPOINTMENT; QUALIFICATIONS; REAPPOINTMENT; COMPENSATION; AND REMOVAL.

A local board of health shall appoint a full-time or part-time local health officer. ~~with approval by the commissioner.~~ The local health officer shall be a physician or a licensed advanced practice registered nurse with the ability to practice independently currently licensed in this state and knowledgeable in the science of public health. A local health officer serves at the will and pleasure of the local board for a term of one year and is eligible for reappointment at compensation determined by the local board of health.

A local health officer may be removed from office by the commissioner if the local health officer fails or refuses to carry out the lawful orders or rules of the secretary in the event the commissioner determines a public health emergency exists or if the local health officer fails or refuses to enforce public health laws and rules necessary to prevent and control the spread of communicable or reportable diseases dangerous to the public health. Upon removal, a successor local health officer shall immediately be appointed by the board pursuant to the provisions of this article.

§16-2-13. LOCAL HEALTH OFFICER; POWERS AND DUTIES.

(a) A local health officer serves as the executive officer of the local board and under its supervision, a local health officer shall

administer and enforce state rules, local rules, and local health department rules within the local board of health's service area.

(b) A local health officer has the following additional powers ~~and duties~~ which may be delegated with the approval of the board:

(1) To attend local board meetings as a nonvoting member. A local health officer serves as secretary at all board meetings and is responsible for maintaining the board's offices, meeting minutes, and records;

(2) To supervise and direct the activities of the local board's health services, employees and facilities;

(3) To ensure that procedures are established for the receipt of communicable or reportable disease reports ~~from local physicians and other reporting sources~~ and for the transmittal of the reports to the commissioner;

(4) To perform mandatory HIV tests on persons convicted of sex-related offenses and resident within the service area; and

(5) To determine when sufficient corrections have been made to warrant removal of any restrictions or limitations placed on an individual or entity for public health purposes by an employee of the local board of health.

(c) A local health officer shall perform enforcement activity.

(d) A local health officer may issue guidance.

(e) A local health officer may issue a health order.

§16-2-14. Financial responsibilities of appointing authorities for local boards of health; levies; appropriation of county or municipal general funds for public health purposes; state funding.

The appointing authorities for local boards of health shall provide financial support for the operation of the local health department. The county commission of any county or the governing body of any municipality in which a local board of

health is established ~~pursuant to the provisions of this article~~, or the county commission of any county or the governing body of any municipality who is a participating member of a combined local board of health may levy a county or municipal tax to provide funds for the local board of health: *Provided,* That the tax may not exceed 3 cents on each $100 of assessed valuation of the taxable property in the levying county or municipality, according to the latest assessment.

The county commission of any county or the governing body of any municipality in which a local board of health is established, ~~pursuant to the provisions of this article,~~ or the county commission of any county or the governing body of any municipality who is a participating member of a combined local board of health may appropriate and spend money from the county or municipal general funds for public health purposes and to pay the expenses of the operation of the local board of health services and facilities.

The commissioner and the secretary may pay over and contribute to any board of health, ~~created and maintained pursuant to the provisions of this article~~ the sum or sums of money that may be available from funds included in appropriations made for the department. ~~of Health and Human Resources.~~ The commissioner may withhold all or part of any funds until a local board of health submits an acceptable plan to correct deficiencies in the local board's program plan.

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 463)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Barrett, Cooper, Hardy, Kimble, Thompson and Toney.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4113) passed.

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

On this question, the yeas and nays were taken **(Roll No. 464)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Barrett, Cooper, Hardy, Kimble, Thompson and Toney.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4113) takes effect from its passage.

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

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

Com. Sub. for H. B. 4257, Require visitation immediately following a procedure in a health care facility.

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

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

"ARTICLE 39. PATIENT SAFETY ACT.

§16-39-3. DEFINITIONS.

For purposes of this article, the following words and phrases have the following meanings:

'Appropriate authority' means a federal, state, county, or municipal government body, agency or organization having jurisdiction over criminal law enforcement, regulatory violations, professional conduct or ethics, or waste or any member, officer, agent, representative, or supervisory employee thereof;

'Clergy' means an ordained clergy, such as a rabbi, priest, Islamic cleric, associate pastor, licensed minister, or lay minister serving under the direction of the congregation such as the Roman Catholic Eucharistic ministers;

'Commissioner' means the commissioner of the division of health;

'Direct patient care' means health care that provides for the physical, diagnostic, emotional, or rehabilitational needs of a patient or health care that involves examination, treatment, or preparation for diagnostic tests or procedures.

'Discrimination or retaliation' includes any threat, intimidation, discharge, or any adverse change in a health care worker's position, location, compensation, benefits, privileges, or terms or conditions of employment that occurs as a result of a health care worker engaging in any action protected by this article.

'Good faith report' means a report of conduct defined in this article as wrongdoing or waste that is made without malice or consideration of personal benefit and which the person making the report has reasonable cause to believe is true.

'Health care entity' includes a health care facility, such as a hospital, clinic, nursing facility, or other provider of health care services.

'Health care facility' means:

(1) A hospital licensed pursuant to §16-5B-1 *et seq.* of this code;

(2) A nursing home licensed pursuant to §16-5C-1 *et seq.* of this code;

(3) An assisted living residence licensed pursuant to §16-5D-1 *et seq.* of this code; and

(4) Hospice licensed pursuant to §16-5I-1 *et seq.* of this code.

'Health care worker' means a person who provides direct patient care to patients of a health care entity and who is an employee of the health care entity, a subcontractor, or independent contractor for the health care entity, or an employee of the subcontractor or independent contractor. The term includes, but is not limited to, a nurse, nurse's aide, laboratory technician, physician, intern, resident, physician assistant, physical therapist, or any other person who provides direct patient care.

'Patient' means a person living or receiving services as an inpatient at a healthcare facility.

'Public Health State of Emergency' means a federal or state declaration of a state of emergency arising from or relating to a public health crisis.

'Visitor' means any visitor from the patient's family, or hospice ~~or clergy~~ visiting a patient in a healthcare facility.

'Waste' means the conduct, act, or omission by a health care entity that results in substantial abuse, misuse, destruction, or loss of funds, resources, or property belonging to a patient, a health care entity, or any federal or state program.

'Wrongdoing' means a violation of any law, rule, regulation, or generally recognized professional or clinical standard that relates to care, services, or conditions and which potentially endangers one or more patients or workers or the public.

§16-39-8. VISITATION OF A PATIENT IN A HEALTH CARE FACILITY.

(a) During a declared public health state of emergency for a contagious disease, a health care facility shall permit visitation of a patient. If the patient's death is imminent, the health care facility shall allow visitation upon request at any time and frequency. In

all other instances, the health care facility shall allow visitation once the patient is stable following a surgical procedure and, not less than once every five days: *Provided,* That visitation permitted by any health care entity may not be inconsistent with any applicable federal law, rule, policy, or guidance in effect for the same emergency.

(b) A visitor shall comply with the applicable procedures established by the health care facility.

(c) The health care facility may deny a visitor entry to the health care facility, may subject a visitor to expulsion from the facility, or may permanently revoke visitation rights to a visitor who does not comply with the applicable procedures established by the health care facility.

(d) A healthcare facility is not liable to a person visiting another person, nor to any other patient or resident of the health care facility, for any civil damages for injury or death resulting from or related to actual or alleged exposure during, or through the performance of, the visitation in compliance with this section, unless the health care facility failed to substantially comply with the applicable health and safety procedures established by the health care facility.

(e) Health care facilities shall provide patients adequate and lawful access to clergy so that patients can practice their religion by receiving clergy visitation at any reasonable time, as long as the visit does not disrupt clinical care: *Provided*, That if the health care facility limits the number of people able to visit the patient, the member of the clergy is not to be considered within that number.

(f) Clergy shall comply with the applicable visitation procedures established by the health care facility."

And,

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

Com. Sub for H. B. 4257 - "A Bill to amend and reenact §16-39-3 and §16-39-8 of the Code of West Virginia, 1931, as

amended, all relating to requiring visitation of a patient in a health care facility; defining terms; permitting visitation when the patient is stable following a surgical procedure; permitting visitation of a patient by a member of clergy; and establishing parameters for clergy visitation."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 465)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Hardy, Thompson and Toney.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4257) passed.

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

On this question, the yeas and nays were taken **(Roll No. 466)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Hardy, Thompson and Toney.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4257) takes effect from its passage.

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

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 4396, Reducing federal adjusted gross income relating to tolls for travel on West Virginia toll roads paid electronically.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

H. B. 4410, Specifying allocation, apportionment and treatment of income of flow-through entities.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4451, Eliminating the requirement that otherwise qualified investment assets be located or installed at or within 2 miles of a preexisting manufacturing facility.

A message from the Senate, by

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

Com. Sub. for H. B. 4479, Establishing the Coalfield Communities Grant Facilitation Commission.

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

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

"**ARTICLE 2K. COALFIELD COMMUNITIES GRANT FACILITATION COMMISSION.**

§5B-2K-1. Short title.

This article shall be known as the Coalfield Grant Facilitation Act of 2022.

§5B-2K-2. LEGISLATIVE FINDINGS.

The Legislature finds that the historical coal field communities of this state that were once thriving and vital parts of the state have seen decades of decline as changes in coal mining technologies and mining practices and the decline in the market for coal have

resulted in a steady decline in the populations and economic vitality of the coal mining regions of our state; and every effort made to revitalize these areas is an important and necessary component of the success and advancement of the economy of this state.

Many funding initiatives available to these areas in the form of matching grants from federal and private sources have become a significant and important opportunity for access to capital to initiate revitalization, but limitations of funds to match grants and having the resources to apply for and facilitate receipt of these grants has encumbered the utilization of these resources.

The Legislature, by enactment of this article, intends to initiate mechanisms to facilitate the access to such capital, by establishing a commission to administer state funds to provide to eligible local entities the required local matching portion for certain grants; and to facilitate assistance to these local entities by providing access to grant writing expertise and support by utilizing our state university and colleges to assist in the development of successful grant writing resources for local entities to maximize their success in rebuilding their communities.

§5B-2K-3. COALFIELD COMMUNITY GRANT FACILITATION COMMISSION CREATED.

(a) The Coalfield Community Grant Facilitation Commission is hereby created as an independent body corporate. The commission shall consist of 12 members, who shall be residents and citizens of the state. Commission members shall be appointed by the Governor, by and with the advice and consent of the Senate. The commission shall consist of the following members:

(1) The Secretary of the Department of Economic Development, or his or her designee, who shall serve as chairperson of the commission;

(2) A representative of county governments of this state;

(3) A representative of large municipalities of this state;

(4) A representative of small municipalities of this state;

(5) Two representatives of a foundation, nonprofit, or other organization that provides grants for public interest projects in this state and who has expertise in grant issuance or administration;

(6) Two representatives of institutions of higher education with specialized knowledge in economic development;

(7) A representative from businesses and industries within the state; and

(8) Three members at large appointed from regions and counties within coalfield areas of the state who have knowledge and experience in local issues, economic development, or other areas of expertise within the directive of the commission.

(b) Each member shall serve a term of five years. Of the members first appointed, five shall be appointed for a term ending December 31, 2023, and three each for terms ending one and two years thereafter. Commission members may be reappointed to additional terms, and although their terms may have expired shall continue to serve until their successor has been appointed.

(c) It is the duty of the commission:

(1) To establish a process for timely review of applications and approval of awards of funds needed as a required match to receive federal, state, or private grants with the goal to assure the greatest possibility that a grant being applied for is received;

(2) To award grants of commission funds, as available, in an efficient and fair manner to provide a match for local entities that would otherwise qualify for a federal, state, or private grant but are unable to fulfill the grant's matching fund requirements;

(3) To provide grant applicants with technical assistance and support; and

(4) To disseminate information for the purpose of educating persons and entities as to the existence and functions of the commission and as to the availability of state, federal, and nongovernmental resources.

(d) The Department of Economic Development shall assist the commission in its functions and operations including, but not limited to, providing administrative, clerical, and technical support.

(e) Members of the commission are not entitled to compensation for services performed as members. Each member is entitled to reimbursement for reasonable expenses incurred in the discharge of their official duties. All expenses incurred by members 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 Department of Economic Development or from funds appropriated for that purpose by the Legislature.

(f) No liability or obligation is incurred by the commission beyond the extent to which moneys are awarded for grant acquisition facilitation.

(g) Members shall meet as designated and scheduled by the chairperson. The presence of a majority of commission members, in person or by real-time electronic communication, constitutes a quorum to conduct business at a meeting.

(h) The commission shall prioritize the locations for grant funding assistance by utilizing the designation of priority communities established by the 'Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization' established by presidential executive order 14008, issued on January 21, 2021. The commission may not certify a project unless it finds that the proposal is in the public interest and the grant will be used for a public purpose. For purposes of this article, projects in the public interest and for a public purpose can provide private benefit, if the commission, in its judgment determines that: (1) the project will enhance a local community or region; (2) the granting entity for which the commission's matching grant is being used requires a public purpose for grant eligibility; and (3) the commission in its judgment concludes the proposal will enhance the quality of life or services of a community or region. A public purpose includes, but is not limited to, proposals that:

(1) Enhance economic vitality, including revitalization of structures that have public purpose or benefit;

(2) Promote or develop an artistic or philanthropic purpose;

(3) Improve traditional infrastructure, such as water and wastewater treatment facilities, transmission lines, transportation facilities, and flood and wastewater management;

(4) Create or enhance telecommunications infrastructure including cellular towers, fiber optic expansion and technology infrastructure;

(5) Promote agricultural activities and development;

(6) Enhance development of previously mined areas or areas previously used by the coal industry and other industrial activities into uses that diversify the local economy;

(7) Create or expand recreational facilities, such as walking, hiking, all-terrain vehicle, bike trails, picnic facilities, restrooms, boat docking and fishing piers, and athletic facilities;

(8) Are used for acquisition of private property for local public purposes that promote economic vitality and housing development and enhancement;

(9) Preserve or enhance buildings that are of local historic or economic interest;

(10) Restore or create retail facilities, including related service, parking, and transportation facilities, to revitalize decaying downtown areas;

(11) Are the construction or expansion of other facilities that promote or enhance economic development or tourism opportunities thereby promoting the general welfare of local residents;

(12) Provide facilities and activities that provide resources for local residences that enhance quality of life including, but not limited to, childcare access and public transportation;

(13) Provide vocational and entrepreneurial training for displaced miners and other persons that have lost jobs or have been unable to find employment or business opportunities in the region;

(14) Make investments in coal field communities housing stock removal and remediation to facilitate community preservation and aesthetics; and

(15) Create drug and substance abuse rehabilitation programs and facilities.

(i) Prior to making any matching grant award, the commission may conduct a public hearing to assess local public support. If a public hearing is to be held, notice of the time, place, date, and purpose of the hearing shall be published in at least one newspaper in the county where the proposed grant project is located at least 14 days prior to the hearing date.

(j) When a member of the commission must recuse himself or herself because of a perceived or actual conflict of interest regarding a proposed grant assistance award, a majority of the remaining members of the commission without a conflict shall be sufficient for the conduct of commission business.

§5B-2K-4. COALFIELD COMMUNITY GRANT FACILITATION SPECIAL REVENUE ACCOUNT.

A special revenue fund to be known as the Coalfield Community Grant Facilitation Fund is hereby created which shall consist of all moneys made available for the purposes of this article and include any amounts to be deposited in the fund, including all appropriations to the fund, all interest earned from investment of the fund, and any gifts, grants, or contributions received by the fund. All amounts deposited in the fund shall be awarded by the commission as provided pursuant to the provisions of this article to local governmental units and private and public entities for purposes provided for in this article.

§5B-2K-5. FACILITATION OF GRANT SUBMISSIONS BY HIGHER EDUCATION INSTITUTIONS.

To maximize the resources of the state and to create a resource for entities and persons interested in applying for grants that need assistance with grant proposal and applications, the commission shall coordinate and administer a specialized subcommittee of the commission made up of representatives of West Virginia University, Marshall University, the Alliance for Economic Development of Southern West Virginia, and all institutions of higher learning in the coal field counties and regions of this state to provide assistance in the development of grants and grant applications by persons or entities that need assistance in designing, preparing, or implementing a grant proposal submission to a governmental or private entity providing grants. This assistance shall include:

(1) Training of persons to have expertise in developing, applying for, and administering grants;

(2) Providing technical assistance to the commission on administration and facilitation of grant assistance applications; and

(3) Any other actions or initiatives that assist the commission and promote the goals of this article.

§5B-2K-6. REPORT TO THE LEGISLATURE.

The commission shall provide by December first of each year to the Joint Committee on Government and Finance an annual electronic report that provides the following:

(1) A summary of grant assistance applications received and relevant statistics relating to actions taken by the commission and grants awarded;

(2) An analysis of types of grants or public, private and nonprofit grants available but not applied for that if received could be utilized to benefit coal field communities;

(3) Recommendations regarding appropriations to the Coalfield Community Grant Facilitation Fund for the upcoming fiscal year; and

(4) Any recommended legislation or policy actions needed to facilitate greater receipt of grant funding to coalfield communities."

And,

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

Com. Sub. for H. B. 4479 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2K-1, §5B-2K-2, §5B-2K-3, §5B-2K-4, §5B-2K-5, and §5B-2K-6, all relating to establishing the Coalfield Communities Grant Facilitation Commission; providing legislative findings; establishing the Commission and providing for its membership and duties; providing for commission assistance from the Department of Economic Development and certain institutions of higher education; authorizing the Commission to provide the local match portion for local public and private entities applying for grants from federal, state and private sources; providing what constitutes a public purpose for eligibility for grant match; establishing a special revenue account; directing the creation of a special subcommittee of the Commission to assist the Commission and grant applicants with training and other technical expertise as directed by the Commission; and providing for annual electronic reports to the Legislature's Joint Committee on Government and Finance."

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 467)**, and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Cooper, Hardy, Thompson and Toney.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4479) passed.

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

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

H. B. 4604, Relating to abolishing the Workforce Development Initiative Program Advisory Council.

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

H. B. 4604 – "A Bill to amend and reenact §18B-3D-2 of the Code of West Virginia, 1931, as amended, relating to abolishing the Workforce Development Initiative Program advisory committee."

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 468)**, and there were—yeas 91, nays 4, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Fleischauer, Pushkin, Walker and Young.

Absent and Not Voting: Cooper, Foster, Hardy, Thompson and Toney.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (H. B. 4604) passed.

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

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

Com. Sub. for S. B. 505, Updating laws on licensure and regulation of money transmitters.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had concurred in the changed effective date, to take effect from passage, of

Com. Sub. for S. B. 553, Relating to powers of WV Health Care Authority.

A message from the Senate, by

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

S. C. R. 58 - "Requesting the Joint Committee on Government and Finance study the common law cause of action for public nuisance in West Virginia. "

Whereas, the Supreme Court of Appeals of West Virginia held in *Hark v. Mountain Fork Lumber Co.*, 127 W. Va. 586, 595 (1945): "A public nuisance is an act or condition that unlawfully operates to hurt or inconvenience an indefinite number of persons. The distinction between a public nuisance and a private nuisance is that the former affects the general public, and the latter injures one person or a limited number of persons only. Ordinarily, a suit to abate a public nuisance cannot be maintained by an individual in his private capacity, as it is the duty of the proper public officials to vindicate the rights of the public. *Curry v. Timber Co.*, 87 W. Va. 429, 105 S.E. 263; *Davis v. Spragg*, 72 W. Va. 672, 79 S.E. 652; *Talbott v. King*, 32 W. Va. 6, 9 S.E. 48; *Keystone Bridge Company v. Summers et al.*, 13 W. Va. 476. But if the act or condition causes special injury to one or a limited number of persons and substantial permanent damages result which cannot be fully compensated in an action at law, a suit to abate a nuisance so existing may be maintained by a private individual. *Keystone Bridge Company v. Summers et al., supra.*": therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on the Judiciary is hereby requested to study the common law cause of action for public nuisance in West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2023, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance."; which was referred to the Committee on Rules.

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

S. C. R. 59 - "Respectfully urging the executive branches of the United States government and the State of West Virginia to provide adequate staffing levels for all governmental agencies and departments involved in permitting road, bridge, water, wastewater, broadband, and other infrastructure projects."

Whereas, The federal government has been a vital contributor to West Virginia's infrastructure funding, and West Virginia is expecting increased funding in the future, such as from the Infrastructure Investment and Jobs Act of 2021; and

Whereas, In addition to funding, the availability of materials and speedy processing of permits, including but not limited to environmental permits, is essential to allow infrastructure projects to commence in a timely manner. Delays in the issuance of permits create obstacles that can pause, increase the cost, and prevent infrastructure improvements and construction; and

Whereas, The executive summary of the American Society of Civil Engineer's 2020 Report Card for West Virginia's Infrastructure gave West Virginia a grade point average of "D", with a "D" grade defined as being poor and at risk. The summary noted, in part, that more than 95 percent of the state's 7,291 bridges are maintained by the West Virginia Division of Highways and, of those bridges, 21 percent or 1,531 are structurally deficient, a much higher percentage than the national average of seven percent; and

Whereas, Time is of the essence to ensure that West Virginia's infrastructure is available for save use, and a delay in the ability to obtain necessary permits, such as from the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers, may be prevented by streamlining permit processes and securing staffing levels capable of handling requests at once; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby respectfully urges the executive branches of the United States government and the State of West Virginia to provide adequate staffing levels for all governmental agencies and departments involved in permitting road, bridge, water, wastewater, broadband, and other infrastructure projects; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President of the United States, the Administrator of the U.S. Environmental Protection Agency, the Chief of Engineers and Commanding General of the United States Army Corps of Engineers, the Governor of the State of West Virginia, and the Secretary of the West Virginia Department of Environmental Protection."; which was referred to the Committee on Rules.

A message from the Senate, by

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

S. C. R. 60 - "Requesting the Joint Committee on Government and Finance study outdoor advertising and propose updates to the state's outdoor advertising laws and regulations, including allowing temporary signage that complies with federal law and regulations."

Whereas, There have been multiple attempts by the West Virginia Legislature to update state law on outdoor advertising, W.Va. Code §17-22-1 *et seq.*, including Senate Bill 116 (2022), Senate Bills 329 and 615 and House Bill 3104 (2021), Senate Bill 497 (2020), House Bill 2701 (2019), Senate Bill 309 and House Bill 2365 (2018), and House Bill 2365 (2017), and some of this legislation sought to allow for temporary signage, including Senate Bill 116 (2022); and

Whereas, The West Virginia Division of Highways (DOH) typically points out in fiscal notes concerning such bills that the bills appear to violate federal law and regulations, as well as the Division of Highways' January 6, 1969, agreement with the Federal Highway Administration (FHWA), and that this 1969 agreement contains no provisions to regulate temporary outdoor advertising signing; and

Whereas, Most sections in W.Va. Code §17-22-1 *et seq.* were enacted in 1939 or 1969 and have not been substantially updated since that time, despite changing needs, at least one U.S. Supreme Court opinion addressing temporary directional signs, and other developments; and

Whereas, Temporary outdoor advertising is an important tool for tourism and economic ventures, and temporary signage could be used to inform the public of fairs, festivals, special sales, and other worthy events; and

Whereas, Oregon law, Oregon Revised Statutes §377.735, makes special mention of temporary signs, indicating that signs that are up for less than 60 days in a year and are no more than 12 square feet and not posted for compensation may be exempt from needing a permit, further indicating that a state may enact

temporary sign legislation without violating federal law and without jeopardizing federal funding; and

Whereas, The Division of Highways and the West Virginia Legislature should examine how outdoor advertising laws may be modernized to benefit the state; and

Whereas, The Division of Highways should consider updating Title 157, Series 6, of the Code of State Rules, a rule that contains provisions concerning outdoor advertising; and

Whereas, The Division of Highways and Department of Transportation should examine if and how the State Road Commission of West Virginia's January 6, 1969, agreement with the United States of America, by the Secretary of Transportation, acting through the Federal Highway Administrator, may need to be revised to benefit the state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study outdoor advertising and propose updates to the state's outdoor advertising laws and regulations, including allowing temporary signage that complies with federal law and regulations; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance."; which was referred to the Committee on Rules."

Resolutions Introduced

Delegates Anderson, J. Kelly, Zatezalo, Cooper, Boggs, Criss, Householder, Pethtel, Maynard, Bridges and Evans offered the

following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 20 - "Highlighting West Virginia's once-in-a-lifetime opportunity to strengthen national security and energy independence and supply world energy markets."

Whereas, The tragic events in Ukraine are bringing renewed attention to national security issues and world energy policies; and

Whereas, Multiple NATO countries remain dependent on Russian energy, *i.e.* coal, gas and oil; and

Whereas, Remarkedly, even the United States is consuming shipments of Russian coal to generate electricity and oil to fuel its energy needs; and

Whereas, dependence on Russian coal, gas and oil throughout Europe is clearly limiting an effective response from NATO countries; and

Whereas, World sanctions against Russia are having limited effects because energy sales are exempt from sanctions; and

Whereas, Countries, including the United States, by purchasing Russian energy, are sending payments to Russia, funding their military actions; and

Whereas, Current national energy policies have and continue to jeopardize domestic national security and our ability to assist our allies overseas; and

Whereas, By shutting down coal-fired power plants, curtailing coal output, prohibiting natural gas production and pipeline development, and importing Russian energy, current policies have weakened our energy security and our capacity to help our allies overseas; and

Whereas, The national security and energy independence of the United States is of paramount importance and has taken a second seat to climate policies and environmental interests; and

Whereas, West Virginia energy, such as coal and natural gas, shall hereinafter be referred to as "Freedom Fuel," and our coal workers referred to as "Freedom Miners"; and

Whereas, Russia currently supplies about 30% of the metallurgical coal used by European steelmakers and about 60% of the thermal coal used to generate electricity; and

Whereas, West Virginia coal, already preferred by European electricity generators and steel manufacturers for its quality and stable supply history, can offset European needs for Russian coal; and

Whereas, If natural gas supplies are further disrupted, coal-fired power plants can generate more electricity to offset the lost generation from natural gas plants; and

Whereas, West Virginia coal can be converted to liquid fuels to address oil and diesel fuel shortages; therefore, be it

Resolved by the House of Delegates of West Virginia:

That the State Executive, State Legislature, and industry leaders convene immediately to discuss the situation; and, be it

Further Resolved, That the State Executive and State Legislature is urged to identify and remove barriers and obstacles to establish a path forward for West Virginia coal and natural gas to be extracted and transported to NATO countries; and, be it

Further Resolved, That the Legislature is urged to create a special committee under the leadership of the House of Delegates' and Senate's Energy Committee Chairmen and select committee members to develop policies, legislation, and regulatory reforms necessary to effectuate the intent and scope of the charge outlined herein; and, be it

Further Resolved, That the Legislature is urged to unleash the power of West Virginia's Freedom Fuels for a stronger nation and safer, more secure global community.

Special Calendar

Third Reading

S. B. 1, Creating Mining Mutual Insurance Company; on third reading, coming up in regular order, with amendments pending and the right to amend, was reported by the Clerk.

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

Com. Sub. for S. B. 5, Creating WV Unmanned Aircraft Systems Advisory Council; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 469)**, and there were—yeas 91, nays 2, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: J. Kelly and Kimes.

Absent and Not Voting: Clark, Cooper, Dean, Hardy, Storch, Thompson and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 5) passed.

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

Com. Sub. for S. B. 5 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2K-1, §5B-2K-2, §5B-2K-3, §5B-2K-4 and §5B-2K-5, and to amend said code by adding thereto a new section designated §61-16-3; all relating to advanced air mobility aircraft, advanced air mobility, and public-use vertiports; stating the public policy; requires public-use vertiports be authorized by and be in compliance with federal authorities; prohibiting a political subdivision in the state from authorizing exclusive use of public-

use vertiports; stating the provisions of the article supplement any federal law or standard; authorizing the use of federal grants to construct, maintain, operate, or otherwise utilize vertiports; prohibiting any county, city, village, or township from adopting any ordinance, policy, or rule that prohibits or otherwise attempts to regulate use or ownership of advanced air mobility aircraft or advanced air mobility system; and providing definitions for advanced air mobility aircraft and advanced air mobility system."

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

On this question, the yeas and nays were taken **(Roll No. 470)**, and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Cooper, Dean, Hardy, Longanacre, Thompson and Toney.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 5) takes effect from its passage.

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

Com. Sub. for S. B. 6, Establishing common law "veil piercing" claims not be used to impose personal liability; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 471)**, and there were—yeas 75, nays 22, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Brown, Diserio, Doyle, Evans, Fast, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Hardy, Longanacre and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 6) passed.

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

Com. Sub. for S. B. 25, Updating provisions of Medical Professional Liability Act; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

No amendments were offered to the bill.

The bill was then read a third time.

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

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 472)**, and there were, including pairs—yeas 58, nays 40, absent and not voting 2, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Keaton Nay: Hornbuckle

Nays: Barach, Boggs, Booth, Bridges, Brown, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Honaker, D. Kelly, Longanacre, Lovejoy, Mallow, Mandt, Martin, Miller, Nestor, Paynter, Pethtel, Pushkin, Reynolds, Rowan, Rowe, Sypolt, Thompson, Tully, Walker, Wamsley, G. Ward, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Skaff and Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 25) passed.

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

S. B. 172, Increasing compensation of elected county officials; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Householder asked and obtained unanimous consent to amend the bill on third reading, and the rule was suspended to permit the offering and consideration of such.

On motion of Delegate Householder, the bill was amended on page one, following the article heading, inserting the following:

"**§7-7-1. Legislative findings and purpose.**

(a) The Legislature finds that it has, since January 1, ~~2007~~ 2015, consistently and annually imposed upon the county commissioners, sheriffs, county and circuit clerks, assessors and prosecuting attorneys in each county new and additional duties by the enactment of new provisions and amendments to this code. The new and additional duties imposed upon the aforesaid county officials by these enactments are such that they would justify the increases in compensation as provided in section four of this article, without violating the provisions of section thirty-eight, article VI of the Constitution of West Virginia.

(b) The Legislature further finds that there are, from time to time, additional duties imposed upon all county officials through the acts of the Congress of the United States and that such acts constitute new and additional duties for county officials and, as such, justify the increases in compensation as provided by section four of this article, without violating the provisions of section thirty-eight, article VI of the Constitution of West Virginia.

(c) The Legislature further finds that there is a direct correlation between the total assessed property valuations of a county on which the salary levels of the county commissioners, sheriffs, county and circuit clerks, assessors and prosecuting attorneys are based, and the new and additional duties that each of these officials is required to perform as they serve the best interests of their respective counties. Inasmuch as the reappraisal of the property valuations in each county has now been accomplished, the Legislature finds that a change in classification of counties by virtue of increased property valuations will occur on an infrequent basis. However, it is the further finding of the Legislature that when such change in classification of counties does occur, that new and additional programs, economic developments, requirements of public safety and the need for new services provided by county officials all increase, that the same constitute new and additional duties for county officials as their respective counties reach greater heights of economic development, as exemplified by the substantial increases in property valuations and, as such, justify the increases in compensation provided in section four of this article, without violating the provisions of section thirty-eight, article VI of the Constitution of West Virginia.

(d) The Legislature further finds and declares that the amendments enacted to this article are intended to modify the provisions of this article so as to cause the same to be in full compliance with the provisions of the Constitution of West Virginia and to be in full compliance with the decisions of the Supreme Court of Appeals of West Virginia."

And,

On page two, section four, line thirty-two, following the words "is effective", by striking out "July 1, 2014" and inserting in lieu thereof a parentheses, a blank line, and a parentheses.

The bill was then read a third time.

Delegates Paynter and Mandt requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegates were members of a class of persons possibly to be affected and directed the Members to vote.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 473)**, and there were, including pairs—yeas 89, nays 8, absent and not voting 3, with the paired, the nays and the absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Hornbuckle Nay: McGeehan

Nays: Doyle, Hamrick, Kimble, Kimes, Mandt, Paynter and Pritt.

Absent and Not Voting: J. Kelly, Storch and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 172) passed.

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

S. B. 172 – "A Bill to amend and reenact §7-7-1 and §7-7-4 of the Code of West Virginia, 1931, as amended, all relating to increasing the compensation of elected county officials."

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

Com. Sub. for S. B. 231, Relating generally to broadband connectivity; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

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

Com. Sub. for S. B. 245, Revising wage payment and collection; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment, recommended by the Committee on the Judiciary was reported by the Clerk and adopted, on page 2, section 3, line 39, by inserting a new subsection (c) to read as follows:

"(c) An employer who chooses to compensate its employees using payroll cards pursuant to the provisions of subsection (b)(3) of this section must also give employees the option of being paid by electronic transfer under the provisions of subsection (b)(4) of this section."

And,

Renumbering the remaining subsections accordingly.

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

Whereupon,

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

Delegate Young moved to amend the bill on page 2, Section 3, line 25, by striking out the words "at least one withdrawal or transfer" and insert in lieu thereof, the word "unlimited withdrawals or transfers".

The question being on the adoption of the amendment, the same was put and did not prevail.

Delegate Young moved to amend the bill on page 2, section 3, line 29, following the period, by inserting the following:

"Payroll card vendors may not provide employers with any financial or other incentives for offering payroll cards as a wage payment option."

The question being on the adoption of the amendment, the same was put and did not prevail.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 474)**, and there were—yeas 76, nays 24, absent and not voting none, with the nays being as follows:

Nays: Barach, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Nestor, Paynter, Pethtel, Pushkin, Rohrbach, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 245) passed.

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

S. B. 253, Relating to voting precincts and redistricting; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 475)**, and there were—yeas 92, nays 6, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Doyle, Fleischauer, Hansen, Pushkin, Rowe and Walker.

Absent and Not Voting: Brown and Ferrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 253) passed.

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

S. B. 253 – "A Bill to amend and reenact §3-1-5 of the Code of West Virginia, 1931, as amended, relating generally to voting

precincts and redistricting; requiring county commissions to submit precinct boundary modifications to the Secretary of State, President of the Senate, and Speaker of the House of Delegates; designating the President of the Senate and the Speaker of the House of Delegates, or designee, as state liaison to the U.S. Census Bureau during certain phases of the Redistricting Data Program; authorizing the Legislature to request the Secretary of State to provide technical responsibilities to staff; requiring county commissions to submit certain information relating to precinct updates to the Secretary of State and the Legislative liaisons on ongoing basis; requiring the Legislative liaisons and Secretary of State to coordinate with counties; requiring the Legislative liaisons and Secretary of State to compile and submit certain information to the U.S. Census Bureau in compliance with certain deadlines and requiring the Secretary of State provide copies to Legislative leadership; requiring the Legislature to provide certain maps and files to the Secretary of State at conclusion of federal congressional or state legislative redistricting; requiring Legislature to provide updated maps and files to the U.S. Census Bureau; requiring Secretary of State to make certain maps and files publicly available in physical office and on website; requiring Secretary of State to maintain certain maps and files in records; requiring county commissions to include magisterial districts in publicly available maps; requiring county commissions to submit certain maps and files to the Legislature and the Secretary of State; and requiring the Secretary of State notify the Legislature and provide copies of any maps it receives from a county commission."

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

Com. Sub. for S. B. 261, Requiring video cameras in certain special education classrooms; on third reading, coming up in regular order, was read a third time.

Delegates Criss and Evans requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegates were members of a class possibly to be affected, and not directly, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 476)**, and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 261) passed.

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

On this question, the yeas and nays were taken **(Roll No. 477)**, and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Graves.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 261) takes effect from its passage.

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

Com. Sub. for S. B. 443, Including police and firefighter as electors of trustees for certain pension funds; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 478)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Graves and McGeehan.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 443) passed.

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

Com. Sub. for S. B. 476, Relating to imposition of minimum severance tax on coal; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 479)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Honaker and Longanacre.

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

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

On this question, the yeas and nays were taken **(Roll No. 480)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Honaker and Longanacre.

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

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

S. B. 478, Relating to Neighborhood Investment Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 481)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Honaker and Longanacre.

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

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

On this question, the yeas and nays were taken **(Roll No. 482)**, and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Honaker, Longanacre and Thompson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 478) takes effect from its passage.

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

Com. Sub. for S. B. 487, Relating to Revenue Shortfall Reserve Fund and Revenue Shortfall Reserve Fund – Part B; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 483)**, and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Kimes.

Absent and Not Voting: Honaker and Longanacre.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 487) passed.

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

Com. Sub. for S. B. 487 - "A Bill to amend and reenact §11B-2-20 of the Code of West Virginia, 1931, as amended, relating to decreasing the threshold below which the secretary of the department of revenue is to annually deposit up to the first fifty percent of all surplus revenues, if any, determined to have accrued during the fiscal year just ended; and requiring the secretary to provide certain annual reports to the Governor and the Joint Committee on Government and Finance."

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

On this question, the yeas and nays were taken **(Roll No. 484)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Honaker and Longanacre.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 487) takes effect from its passage.

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

S. B. 492, Relating to electronic collection of tolls; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 485)**, and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Martin.

Absent and Not Voting: Honaker and Longanacre.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 492) passed.

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

S. B. 492 - "A Bill to amend and reenact §17-16A-11 of the Code of West Virginia, 1931, as amended, relating to the electronic collection of tolls; and providing that nonrenewal of vehicle registration provisions may become effective whenever a reciprocal enforcement agreement is entered into by the West Virginia Parkways Authority, the Commissioner of Motor Vehicles, and any state sharing a common border with this state.

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

On this question, the yeas and nays were taken **(Roll No. 486)**, and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Martin.

Absent and Not Voting: Honaker and Longanacre.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 492) takes effect from its passage.

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

S. B. 493, Requiring county BOE make meetings available to public in-person and through internet; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 487)**, and there were—yeas 88, nays 7, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Bates, Diserio, Fluharty, Hansen, Pethtel, Pushkin and Zukoff.

Absent and Not Voting: Doyle, Honaker, Longanacre, Skaff and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 493) passed.

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

S. B. 493 – "A Bill to amend and reenact §18-5-4 of the Code of West Virginia, 1931, as amended, relating to requiring each county board of education to ensure that all of its meetings are open to the public through in-person attendance and that the audio and video of its meetings are broadcast live to the public through an internet link on its website; providing exception for executive session; allowing each county board to make and enforce reasonable rules for attendance and presentation at any meeting where there is not room enough for all members of the public who wish to attend; requiring the county board to ensure that any person expressing an interest in speaking has the opportunity in compliance with adopted procedures; requiring that speakers are treated equally; requiring that a draft of the minutes of each public board meeting must include a record of the votes cast by each board member on all substantive matters and be posted to the website within two business days; establishing the duration in which the approved minutes shall remain on the website; and removing the option for a county board to join the National School Board Association.

Delegate Summers moved that the bill take effect July 1, 2022.

On this question, the yeas and nays were taken **(Roll No. 488)**, and there were—yeas 92, nays 5, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Bates, Fluharty, Pethtel, Pushkin and Zukoff.

Absent and Not Voting: Honaker, Longanacre and Toney.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 493) takes effect July 1, 2022.

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

Com. Sub. for S. B. 518, Allowing nurses licensed in another state to practice in WV; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 489)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Forsht and Toney.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 518) passed.

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

Com. Sub. for S. B. 518 – "A Bill to repeal §30-7-1a, §30-7-15e, and §30-7-20 of the Code of West Virginia, 1931, as amended, and to amend and reenact §30-7-3, §30-7-4, §30-7-6, §30-7-7, §30-7-8, §30-7-8a, §30-7-20, all relating to the practice of registered nursing; updating the board membership; updating the board's powers; updating licensure requirements; updating the requirements for temporary permits; providing license requirements for license renewal; reconstituting the nursing shortage study commission; and removing outdated provisions."

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

On this question, the yeas and nays were taken **(Roll No. 490)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Burkhammer, Forsht, J. Kelly and Toney.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 518) takes effect from its passage.

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

Com. Sub. for S. B. 528, Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 491)**, and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Burkhammer, J. Kelly, Mazzocchi, Miller, Pack, Toney and Wamsley.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 528) passed.

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

On this question, the yeas and nays were taken **(Roll No. 492)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: J. Kelly, Mazzocchi, Miller, Pack, Toney and Wamsley.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 528) takes effect from its passage.

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

S. B. 529, Encouraging additional computer science education in WV schools; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 493)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: J. Kelly, Mazzocchi, Toney and Wamsley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 529) passed.

A title amendment recommended by the Committee on Finance was reported by the Clerk.

Whereupon,

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

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

S. B. 529 – "A Bill to amend and reenact §18-2-12 of the Code of West Virginia, 1931, as amended, relating to computer science education in West Virginia schools; recognizing a need to provide coursework on computational thinking, block-based programming, text-based programming, network communication, computer architecture, coding, application development, digital literacy, and cyber security; requiring the board to update and build upon prior

computer science education plans and policy to include additional subject matter; and removing obsolete language."

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

Com. Sub. for S. B. 543, Creating Unemployment Compensation Insurance Fraud Unit within Workforce WV; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 494)**, and there were—yeas 92, nays 2, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Burkhammer and Criss.

Absent and Not Voting: J. Kelly, Kessinger, Mazzocchi, Toney, Wamsley and Williams.

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

The House returned to further consideration of Com. Sub. for S. B. 543 and, on motion of Delegate Capito, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 543 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §21A-10-23, relating to authorizing the Commissioner of Workforce West Virginia to create an Unemployment Compensation Insurance Fraud Unit; establishing training and experience requirements; specifying duties; granting certain authorities necessary to conduct investigations into alleged unemployment insurance fraud; authorizing certain personnel to operate a state vehicle and carry a firearm; establishing training requirements for carrying a firearm; exempting the Unemployment Compensation Fraud Unit from the requirements of the Freedom of Information Act and the Open Government Proceedings Act;

and creating certain immunities for acts of an investigator employed by the unit.

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

S. B. 546, Expanding uses of fees paid by students at higher education institutions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 495)**, and there were—yeas 87, nays 9, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Barach, Fluharty, Foster, Griffith, J. Jeffries, McGeehan, Paynter, Pushkin and Zukoff.

Absent and Not Voting: Barnhart, Bates, Kessinger and Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 546) passed.

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

S. B. 570, Establishing training for law-enforcement in handling individuals with Alzheimer's and dementias; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 496)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Barnhart, Kessinger, Linville and Statler.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 570) passed.

Delegate Fleischauer asked unanimous consent to return to S. B. 546 for questions, which consent was not granted, objections being heard.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates on S. B. 570 and request concurrence therein.

Com. Sub. for S. B. 571, Declaring certain claims to be moral obligations of state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 497)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Hamrick, Kessinger, Linville, Maynard, Reed and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 571) passed.

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

On this question, the yeas and nays were taken **(Roll No. 498)**, and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Kessinger, Linville, Reed and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 571) takes effect from its passage.

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

Com. Sub. for S. B. 584, Relating to WV Infrastructure and Jobs Development Council; on third reading, coming up in regular order, was read a third time.

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

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 499)**, and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Hardy, Kessinger, Reed and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 584) passed.

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

Com. Sub. for S. B. 584 - "A Bill to amend and reenact §31-15A-10 and §31-15A-17c of the Code of West Virginia, 1931, as amended, all relating generally to the West Virginia Infrastructure and Jobs Development Council; modifying when available funds may be converted to grants; removing congressional district limitations; increasing the cap on annual spending for assistance with the pre-application process to project sponsors; increasing the amount that may be transferred annually to the critical needs and failing systems sub account; and increasing the cap relating to providing extensions to a water or wastewater facility from $1 million to $2 million provided overages not to exceed 10 percent of the total project cost are paid by certain persons."

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

On this question, the yeas and nays were taken **(Roll No. 500)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Graves, Hardy, Kessinger, Reed and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 584) takes effect from its passage.

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

Com. Sub. for S. B. 585, Creating administrative medicine license for physicians not practicing clinical medicine; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 501)**, and there were—yeas 92, nays 2, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Steele and Young.

Absent and Not Voting: Booth, Bridges, Graves, Hardy, Kessinger and Reed.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 585) passed.

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

S. B. 624, Making supplementary appropriation to DHHR, Division of Health, Laboratory Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 502)**, and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Bridges, Graves, Kessinger and Reed.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 624) passed.

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

On this question, the yeas and nays were taken **(Roll No. 503)**, and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Bridges, Graves, Kessinger and Reed.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 624) takes effect from its passage.

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

Com. Sub. for S. B. 625, Making supplementary appropriation to DHHR, Division of Health, Vital Statistics Account; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 504)**, and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Bridges, Kessinger, Longanacre and Reed.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 625) passed.

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

On this question, the yeas and nays were taken **(Roll No. 505)**, and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Bridges, Kessinger, Longanacre and Reed.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 625) takes effect from its passage.

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

At 12:45 p.m., on motion of Delegate Summers, the House of Delegates recessed until 1:45 p.m.

* * * * * * *

Afternoon Session

* * * * * * *

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

Special Calendar

Third Reading

- continued –

S. B. 633, Supplementing and amending appropriations to DHHR, Consolidated Medical Services Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 506)**, and there were—yeas 75, nays none, absent and not voting 25, with the absent and not voting being as follows:

Absent and Not Voting*: Bridges, Clark, Dean, Fluharty, Foster, Garcia, Graves, Haynes, Kimble, Linville, Martin, Mazzocchi, McGeehan, Nestor, Pack, Paynter, Phillips, Rowe, Skaff, Toney, Walker, Wamsley, Westfall, Williams and Worrell.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 633) passed.

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

On this question, the yeas and nays were taken **(Roll No. 507)**, and there were—yeas 83, nays none, absent and not voting 17, with the absent and not voting being as follows:

Absent and Not Voting*: Fluharty, Foster, Graves, Kimble, Linville, Martin, Mazzocchi, McGeehan, Nestor, Pack, Phillips, Rowe, Skaff, Smith, Toney, Walker and Worrell.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 633) takes effect from its passage.

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

S. B. 634, Making supplementary appropriation to DHHR, Division of Health – Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 508)**, and there were—yeas 85, nays none, absent and not voting 15, with the absent and not voting being as follows:

Absent and Not Voting*: Fluharty, Foster, Graves, Kimble, Martin, Mazzocchi, McGeehan, Nestor, Pack, Phillips, Reynolds, Skaff, Smith, Walker and Worrell.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 634) passed.

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

On this question, the yeas and nays were taken **(Roll No. 509)**, and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

Absent and Not Voting*: Fluharty, Foster, Graves, Kimble, Mazzocchi, Nestor, Pack, Phillips, Skaff, Smith, Walker and Worrell.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 634) takes effect from its passage.

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

Com. Sub. for S. B. 641, Requiring Consolidated Public Retirement Board to set contributions to Deputy Sheriff's Retirement System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 510)**, and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting*: Foster, Graves, Mazzocchi, Nestor, Phillips, Skaff, Smith and Walker.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 641) passed.

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

Com. Sub. for S. B. 641 - "A Bill to amend and reenact §7-14D-7 of the Code of West Virginia, 1931, as amended, relating to the deputy sheriff retirement system; allowing the Consolidated Public Retirement Board to set employer contribution levels; requiring the level to be set actuarially; and providing an effective date."

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

Com. Sub. for S. B. 643, Removing residency requirement of members appointed to county airport authority; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 511)**, and there were—yeas 87, nays 6, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Barrett, Kimble, Mallow, Queen, Riley and Young.

Absent and Not Voting*: Foster, Graves, Mazzocchi, Nestor, Phillips, Skaff and Smith.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Nay".)

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 643) passed.

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

On this question, the yeas and nays were taken **(Roll No. 512)**, and there were—yeas 88, nays 5, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Barrett, Kimble, Mallow, Queen and Riley.

Absent and Not Voting*: Foster, Graves, Mazzocchi, Nestor, Phillips, Skaff and Smith.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 643) takes effect from its passage.

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

Com. Sub. for S. B. 698, Relating to number and selection of members for Governor's Veterans Council; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 513)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting*: Foster, Graves, Mazzocchi, Phillips, Skaff and Smith.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 698) passed.

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

On this question, the yeas and nays were taken **(Roll No. 514)**, and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting*: Foster, Graves, Mazzocchi, Phillips, Skaff and Smith.

(*Pursuant to the motion regarding missed votes due to Conference Committees, Delegate Young is recorded as a "Yea".)

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 698) takes effect from its passage.

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

Com. Sub. for S. B. 704, Allowing parents, grandparents, and guardians to inspect instructional materials in classroom; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 515)**, and there were—yeas 74, nays 26, absent and not voting none, with the nays being as follows:

Nays: Barach, Boggs, Booth, Brown, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Paynter, Pethtel, Pushkin, Rowan, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 704) passed.

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

Com. Sub. for S. B. 704 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-27, relating to requiring each classroom teacher to comply with any request by a parent, custodian, or guardian to inspect any instructional materials and books in the classroom that are available for students to read; requiring, as part of the inspection and upon request of the parent, custodian, or guardian, that the classroom teacher demonstrate how the instructional material relates to the content standards adopted by the State Board of Education; requiring the classroom teacher to include any book or books students will be required to read on a class syllabus; requiring the syllabus to be made available to the parent, custodian, or guardian upon request; allowing any parent, custodian, or guardian to file a complaint with the county superintendent if the classroom teacher fails to comply with this new section, and then with the state superintendent if the complaint is not resolved by the county superintendent within seven days; requiring reports on the number of complaints filed; and defining terms."

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

S. B. 715, Decreasing and increasing existing items of appropriations from State Fund, General Revenue; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 516)**, and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Young.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 715) passed.

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

On this question, the yeas and nays were taken **(Roll No. 517)**, and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 715) takes effect from its passage.

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

S. B. 716, Supplemental appropriation to DOE, WV BOE, Strategic Staff Development; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 518)**, and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Burkhammer.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 716) passed.

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

On this question, the yeas and nays were taken **(Roll No. 519)**, and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Burkhammer.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 716) takes effect from its passage.

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

S. B. 717, Supplemental appropriation to Miscellaneous Boards and Commissions, Board of Medicine, Medical Licensing Board; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 520)**, and there were—yeas 95, nays 4, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Foster, Kimes, Paynter and Steele.

Absent and Not Voting: Burkhammer.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 717) passed.

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

On this question, the yeas and nays were taken **(Roll No. 521)**, and there were—yeas 97, nays 2, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Foster and Steele.

Absent and Not Voting: Brown.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 717) takes effect from its passage.

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

S. B. 718, Supplemental appropriation to Department of Administration, Travel Management, Aviation Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 522)**, and there were—yeas 91, nays 8, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Booth, Fluharty, Foster, Kimes, Longanacre, Pritt, Steele and Young.

Absent and Not Voting: Brown.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 718) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken **(Roll No. 523)**, and there were—yeas 95, nays 4, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Longanacre, Steele and Young.

Absent and Not Voting: Brown.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 718) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 719, Supplemental appropriation to DHS, Fire Commission, Fire Marshal Fees; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 524)**, and there were—yeas 96, nays 3, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Foster, Longanacre and Steele.

Absent and Not Voting: Brown.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 719) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken **(Roll No. 525)**, and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Steele.

Absent and Not Voting: Brown.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 719) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 720, Supplementing and amending appropriations to Executive, Governor's Office, Civil Contingent Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 526)**, and there were—yeas 92, nays 7, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Conley, Foster, Horst, Kimble, Kimes, McGeehan and Paynter.

Absent and Not Voting: Pritt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 720) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken **(Roll No. 527)**, and there were—yeas 94, nays 5, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Conley, Foster, Horst, Kimble and McGeehan.

Absent and Not Voting: Pritt.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 720) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 722, Expiring funds to DEP, Division of Environmental Protection, Reclamation of Abandoned and Dilapidated Property Program Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 528)**, and there were—yeas 96, nays 2, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: J. Jeffries and Kimes.

Absent and Not Voting: Pritt and Walker.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 722) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken **(Roll No. 529)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Pritt and Walker.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 722) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 723, Making supplementary appropriation to Department of Agriculture, WV Spay Neuter Assistance Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 530)**, and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Kimes.

Absent and Not Voting: Pritt.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 723) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken **(Roll No. 531)**, and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Gearheart and Pritt.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 723) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 724, Making supplementary appropriation to DHS, Division of Corrections and Rehabilitation, Regional Jail and Correctional Facility Authority; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 532)**, and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Linville.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 724) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken **(Roll No. 533)**, and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 724) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 725, Supplementing and amending appropriations to DHS, WV State Police; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken **(Roll No. 534)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: D. Kelly and Linville.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 725) passed.

Delegate Summers moved that the bill take effect from its passage.

On this question, the yeas and nays were taken **(Roll No. 535)**, and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: D. Kelly and Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 725) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Second Reading

Com. Sub. for S. B. 2, Relating to unemployment benefits program; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page 1, following the enacting clause, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

"**ARTICLE 2D. UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY ACT.**

§21A-2D-2. Unemployment insurance program integrity.

The commissioner shall, on a weekly basis, unless otherwise specified: ~~be required to~~

~~(a)~~ (1) Check the unemployment insurance rolls against the Division of Corrections and Rehabilitation's list of imprisoned

individuals to verify eligibility for unemployment benefits and ensure program integrity;

~~(b)~~ (2) Check new hire records against the National Directory of New Hires to verify eligibility for unemployment benefits; ~~and~~

~~(c)~~ (3) Check the unemployment insurance rolls against a commercially available database that provides cross-matching functions to verify eligibility for unemployment benefits;

(4) On a monthly basis, cross-check the unemployment insurance rolls against state death records; and

(5) Verify the identity of unemployment claimants by methods including, but not limited to, verifying the identity of an applicant prior to awarding benefits and requiring multi-factor authentication as part of online applications.

§21A-2D-2a. Automatic claim review.

The commissioner shall perform a full eligibility review of suspicious or potentially improper claims in cases including, but not limited to:

(1) Multiple or duplicative claims filed online originating from the same IP address;

(2) Claims filed online from foreign IP addresses;

(3) Multiple or duplicative claims filed that are associated with the same mailing address; and

(4) Multiple or duplicative claims filed that are associated with the same bank account.

§21A-2D-3. Data sharing.

The commissioner ~~shall have the authority to~~ may ~~execute a memorandum of understanding~~ exchange information with any department, agency, or division ~~for information required to be shared between agencies outlined in this article~~ as necessary to carry out the requirements of this article.

ARTICLE 3. UNEMPLOYMENT BENEFITS INDEXING.

§21A-3-1. Duration of benefits; calculation.

(a) For the purposes of this article, "state average unemployment rate" means the average of the seasonally adjusted unemployment rates for the months comprising the previous quarter of the most recent calendar year as published by Workforce West Virginia.

(b) For all valid unemployment compensation claims submitted during a calendar year, the maximum duration of benefits will be as follows:

(1) If the state average unemployment rate is below 5.5 percent, the maximum duration of benefits will be limited to 14 weeks;

(2) If the state average unemployment rate is at or above 5.5 percent, but below 6.0 percent, the maximum duration of benefits will be limited to 15 weeks;

(3) If the state average unemployment rate is at or above 6.0 percent, but below 6.5 percent, the maximum duration of benefits will be limited to 16 weeks;

(4) If the state average unemployment rate is at or above 6.5 percent, but below 7.0 percent, the maximum duration of benefits will be limited to 17 weeks;

(5) If the state average unemployment rate is at or above 7.0 percent, but below 7.5 percent, the maximum duration of benefits will be limited to 18 weeks;

(6) If the state average unemployment rate is at or above 7.5 percent, but below 8.0 percent, the maximum duration of benefits will be limited to 19 weeks;

(7) If the state average unemployment rate is at or above 8.0 percent, but below 8.5 percent, the maximum duration of benefits will be limited to 20 weeks;

(8) If the state average unemployment rate is at or above 8.5 percent, but below 9.0 percent, the maximum duration of benefits will be limited to 21 weeks; and

(9) If the state average unemployment rate is at or above 9.0 percent, the maximum duration of benefits will be limited to 22 weeks.

§21A-3-2. Rulemaking.

Workforce West Virginia shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code necessary to implement the provisions of this article.

§21A-3-3. Effective date.

The provisions of §21A-3-1 of this code shall take effect on January 1, 2023.

ARTICLE 6. EMPLOYEE ELIGIBILITY; BENEFITS.

§21A-6-1. Eligibility qualifications.

An unemployed individual shall be eligible to receive benefits only if the commissioner finds that:

(1) He or she has registered for work at and thereafter continues to report at an employment office in accordance with the regulations of the commissioner;

(2) He or she has made a claim for benefits in accordance with the provisions of ~~article seven of this chapter~~ §21A-7-1 *et seq.* of this code and has furnished his or her Social Security number, or numbers if he or she has more than one such number;

(3) He or she is able to work and is available for full-time work for which he or she is fitted by prior training or experience and is ~~doing that which a reasonably prudent person in his or her circumstances would do in seeking work~~ actively seeking work as defined in §21A-6-1d of this code;

(4) He or she has been totally or partially unemployed during his or her benefit year for a waiting period of one-week prior to the week for which he or she claims benefits for total or partial unemployment;

(5) He or she has within his or her base period been paid wages for employment equal to not less than $2,200 and must have earned wages in more than one quarter of his or her base period or, if he or she is not eligible under his or her base period, has within his or her alternative base period been paid wages for employment equal to not less than $2,200 and must have earned wages in more than one quarter of his or her alternative base period; and

(6) He or she participates in reemployment services as defined in §21A-6-1d of this code, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and needs reemployment services pursuant to a profiling system established by the commissioner, unless the commissioner determines that:

(A) The individual has completed such services; or

(B) There is justifiable cause for the claimant's failure to participate in such services.

§21A-6-1D. JOBS AND REEMPLOYMENT ACT.

(a) In addition to compliance with all other eligibility requirements, an individual shall be eligible and shall remain eligible for unemployment benefits only if he or she actively seeks, and continues to seek, work by conducting at least four work search activities weekly, defined as:

(1) Registering for work with the state's labor exchange system, placement firm, temporary work agencies, or educational institution with job placement offices;

(2) Logging on and looking for work in the state's labor exchange or other online job matching system;

(3) Using reemployment services in job centers or completing similar online or self-service activities, including, but not limited to, obtaining and using labor market and career information, participating in Reemployment Services and Eligibility Assessment (RESEA) activities, participating in skills assessment for occupational matching, instructional workshops, or other specialized activities;

(4) Completing job applications for employers that have, or are reasonably expected to have, job openings, or following through on job referrals or job development attempts, as directed by Workforce West Virginia staff;

(5) Applying for or participating in employment and training services provided by partner programs in job centers;

(6) Participating in work-related networking events, such as job clubs, job fairs, industry association events, or networking groups;

(7) Making contacts with, or in-person visits to, employers that have, or are reasonably expected to have, job openings;

(8) Taking a civil service examination;

(9) Going on interviews with employers, either in-person or virtually; or

(10) Performing any other work search activities prescribed or allowed by rules promulgated by Workforce West Virginia.

(b) The commissioner shall:

(1) Require an individual, at the time of application for unemployment benefits and weekly thereafter, to provide proof of all his or her work search activities;

(2) Verify submissions of proof of work search activities by individuals applying for or receiving unemployment benefits; and

(3) Determine any individual who fails to perform work search activities or provide proof of work search activities as required by this section ineligible to receive unemployment benefits unless the

individual can reasonably explain his or her failure to do so or timely remedy the failure to provide proof of his or her work search activity.

(c) The commissioner shall have discretion to determine the sufficiency of the proof of work search activities submitted, the explanation of a failure to submit such proof, the provision of such proof after an inaccuracy in the proof provided is identified, and whether an individual has otherwise complied with the requirements of this section.

(d) The commissioner shall, utilizing existing resources:

(1) Establish a process by which Workforce West Virginia will share open positions submitted to or posted by the Division of Personnel or any other state-administered job board by employers directly with individuals applying for or receiving unemployment benefits; and

(2) Establish a process by which, for the purpose of helping individuals applying for or receiving unemployment benefits secure suitable work, Workforce West Virginia shall refer individuals applying for or receiving unemployment benefits to such open positions, including facilitating contact between employers and those individuals and monitoring whether those individuals are sufficiently responsive to a referral.

(e) An individual applying for or receiving unemployment benefits who receives referrals from Workforce West Virginia to a job or jobs considered to be suitable, as that term is defined in this chapter, shall apply for that job or those jobs within one-week of receiving the referrals and accept employment in suitable work if offered.

(f) Employers shall report the refusal of any individual who is receiving unemployment benefits and who receives job referrals from Workforce West Virginia to accept an offer of employment to the commissioner. The report shall be made in writing in a manner prescribed by the commissioner and shall be signed by the

employer. The report shall become part of the file of the individual's claim for benefits.

(g) Individuals receiving unemployment benefits who accept a referral to a part-time open position or otherwise accept part-time employment for which the wages are less than his or her weekly benefit rate shall continue to receive unemployment benefits without reduction for those wages for the duration of his or her benefits period.

(h) With the exception of individuals who have received or been served with a summons for jury duty or are serving on a jury in any court of this state, the United States, or any state of the United States; are receiving vocational training as described in the provisions of §21A-6-4 of this code; or who are members in good standing of a union that refers its members to employment from a union hall, all individuals applying for or receiving unemployment benefits shall be subject to the requirements of this section, including, but not limited to, individuals who are seasonally unemployed or laid off subject to recall by their employer.

(i) Workforce West Virginia shall notify individuals seeking benefits, at the time an initial claim is filed and at any other time during the benefit year that the requirements substantively change, of the obligation to actively seek work. Delivery of the notification shall be made by the method selected by the individual seeking benefits, and may include United States mail, email, online mailbox, or text message. The notification shall include, at a minimum, the types of work search activities that are acceptable; the number of work search activities that are required in any week; the requirement that work search activities be documented; and the requirement to apply, and accept if offered, suitable jobs referred by the agency.

(j) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code necessary to implement the provisions of this section.

(k) Except for the provisions of subsection (j) of this section, the provisions of this section shall become effective January 1, 2023.

§21A-6-3. Disqualification for benefits.

Upon the determination of the facts by the commissioner, an individual is disqualified for benefits:

(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 30 working days.

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 14-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 30 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 30 days of leaving the job that his or her work aggravated, worsened, or will worsen the individual's health problem.

For the purpose of this subdivision, an individual shall not be deemed to have left his or her most recent work voluntarily, without good cause involving fault on the part of the employer, if the individual leaves such employment as a result of being denied a religious or medical exemption to the COVID-19 vaccination by his or her employer.

(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 30-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 30 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~~ was discharged from his or her most recent work for one of the following reasons, or if he or she ~~were~~ was discharged from his or her last 30 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 60A~~ §60A-1-1 *et seq.* of this code without a valid prescription, or being under the influence of any controlled substance, as defined in ~~said chapter~~ §60A-1-1 *et seq.* of this code 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 §21-1D-2 of this code; violation of an employer's drug-free

workplace program; violation of an employer's alcohol-free workplace program; 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 30 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 nonstriking 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 or herself 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 30 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 subdivision: *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.

(c) 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.

(9) 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.

(10) 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.

(11) 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.

(12) 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 52 weeks thereafter, beginning with the date of the decision, if the commissioner finds the individual who within 24 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 §21A-10-7 of this code.

§21A-6-10. Benefit rate — Total unemployment; annual computation and publication of rates.

(a) Each eligible individual who is totally unemployed in any week shall be paid benefits with respect to that week at the weekly rate appearing in Column (C) in the benefit table in this section, on the line on which in Column (A) there is indicated the employee's wage class, except as otherwise provided under the term "total and partial unemployment" in §21A-1A-27 of this code. The employee's wage class shall be determined by his or her base period wages as shown in Column (B) in the benefit table. The right of an employee to receive benefits ~~shall~~ may not be prejudiced nor the amount thereof be diminished by reason of failure by an employer to pay either the wages earned by the employee or the contribution due on such wages. An individual who is totally unemployed but earns in excess of $60 as a result of odd job or subsidiary work, or is paid a bonus in any benefit week shall be paid benefits for such week in accordance with the provisions of this chapter pertaining to benefits for partial unemployment.

(b) (1) The maximum benefit for each wage class shall be equal to ~~twenty-six times the weekly benefit rate~~ the employee's weekly benefit rate multiplied by the maximum number of weeks available as determined by §21A-3-1.

(2) The maximum benefit rate shall be 66 and two-thirds percent of the average weekly wage in West Virginia.

(c) On July 1 of each year, the commissioner shall determine the maximum weekly benefit rate upon the basis of the formula set forth above and shall establish wage classes as are required, increasing or decreasing the amount of the base period wages required for each wage class by $150, establishing the weekly benefit rate for each wage class by rounded dollar amount to be 55 percent of one fifty-second of the median dollar amount of wages in the base period for such wage class and establishing the maximum benefit for each wage class as an amount equal to ~~twenty-six times the weekly benefit rate~~ the employee's weekly benefit rate multiplied by the maximum number of weeks available as determined by §21A-3-1: *Provided,* That the commissioner ~~shall~~ may not increase or decrease the maximum weekly benefit rate for the period beginning on the effective date of the amendment and reenactment of this section in the regular session of the Legislature in 2009 until the threshold wage is reduced to $9,000, as required by §21A-1A-28(d) of this code. The maximum weekly benefit rate, when computed by the commissioner, in accordance with the foregoing provisions, shall be rounded to the next lowest multiple of $1.

(d) After he or she has established ~~such~~ the wage classes, the commissioner shall prepare and publish a table setting forth ~~such~~ that information.

(e) Average weekly wage shall be computed by dividing the number of employees in West Virginia earning wages in covered employment into the total wages paid to employees in West Virginia in covered employment, and by further dividing ~~said~~ the result by 52, and shall be determined from employer wage and contribution reports for the previous calendar year which are furnished to the department on or before June 1 following such calendar year. The average weekly wage, as determined by the commissioner, shall be rounded to the next higher dollar.

(f) The computation and determination of rates as aforesaid shall be completed annually before July 1 and any such new wage class, with its corresponding wages in base period, weekly benefit rate, and maximum benefit in a benefit year established by the commissioner in the foregoing manner effective on July 1 shall

apply only to a new claim established by a claimant on and after July 1, and does not apply to continued claims of a claimant based on his or her new claim established before said July 1.

BENEFIT TABLE

A	B			C	
WAGE CLASS	WAGES IN BASE PERIOD			WEEKLY BENEFIT	~~MAXIMUM BENEFIT RATE~~
	Under $ 2,200.00			Ineligible	
1	$ 2,200.00	-	2,359.99	24.00	~~624.00~~
2	2,350.00	-	2,499.99	25.00	~~650.00~~
3	2,500.00	-	2,649.99	27.00	~~702.00~~
4	2,650.00	-	2,799.99	28.00	~~728.00~~
5	2,800.00	-	2,949.99	30.00	~~780.00~~
6	2,950.00	-	3,099.99	31.00	~~806.00~~
7	3,100.00	-	3,249.99	33.00	~~858.00~~
8	3,250.00	-	3,399.99	35.00	~~910.00~~
9	3,400.00	-	3,549.99	36.00	~~936.00~~
10	3,550.00	-	3,699.99	38.00	~~988.00~~
11	3,700.00	-	3,849.99	39.00	~~1,014.00~~
12	3,850.00	-	3,999.99	41.00	~~1,066.00~~
13	4,000.00	-	4,149.99	43.00	~~1,118.00~~
14	4,150.00	-	4,299.99	44.00	~~1,144.00~~
15	4,300.00	-	4,449.99	46.00	~~1,196.00~~
16	4,450.00	-	4,599.99	47.00	~~1,222.00~~
17	4,600.00	-	4,749.99	49.00	~~1,274.00~~
18	4,750.00	-	4,899.99	51.00	~~1,326.00~~
19	4,900.00	-	5,049.99	52.00	~~1,352.00~~
20	5,050.00	-	5,199.99	54.00	~~1,404.00~~
21	5,200.00	-	5,349.99	55.00	~~1,430.00~~
22	5,350.00	-	5,499.99	57.00	~~1,482.00~~
23	5,500.00	-	5,649.99	58.00	~~1,508.00~~
24	5,650.00	-	5,799.99	60.00	~~1,560.00~~
25	5,800.00	-	5,949.99	62.00	~~1,612.00~~

26	5,950.00	-	6,099.99	63.00	~~1,638.00~~
27	6,100.00	-	6,249.99	65.00	~~1,690.00~~
28	6,250.00	-	6,399.99	66.00	~~1,716.00~~
29	6,400.00	-	6,549.99	68.00	~~1,768.00~~
30	6,550.00	-	6,699.99	70.00	~~1,820.00~~
31	6,700.00	-	6,849.99	71.00	~~1,846.00~~
32	6,850.00	-	6,999.99	73.00	~~1,898.00~~
33	7,000.00	-	7,149.99	74.00	~~1,924.00~~
34	7,150.00	-	7,299.99	76.00	~~1,976.00~~
35	7,300.00	-	7,449.99	78.00	~~2,028.00~~
36	7,450.00	-	7,599.99	79.00	~~2,054.00~~
37	7,600.00	-	7,749.99	81.00	~~2,106.00~~
38	7,750.00	-	7,899.99	82.00	~~2,132.00~~
39	7,900.00	-	8,049.99	84.00	~~2,184.00~~
40	8,050.00	-	8,199.99	85.00	~~2,210.00~~
41	8,200.00	-	8,349.99	87.00	~~2,262.00~~
42	8,350.00	-	8,499.99	89.00	~~2,314.00~~
43	8,500.00	-	8,649.99	90.00	~~2,340.00~~
44	8,650.00	-	8,799.99	92.00	~~2,392.00~~
45	8,800.00	-	8,949.99	93.00	~~2,418.00~~
46	8,950.00	-	9,099.99	95.00	~~2,470.00~~
47	9,100.00	-	9,249.99	97.00	~~2,522.00~~
48	9,250.00	-	9,399.99	98.00	~~2,548.00~~
49	9,400.00	-	9,549.99	100.00	~~2,600.00~~
50	9,550.00	-	9,699.99	101.00	~~2,626.00~~
51	9,700.00	-	9,849.99	103.00	~~2,678.00~~
52	9,850.00	-	9,999.99	104.00	~~2,704.00~~
53	10,000.00	-	10,149.99	106.00	~~2,756.00~~
54	10,150.00	-	10,299.99	108.00	~~2,808.00~~
55	10,300.00	-	10,449.99	109.00	~~2,834.00~~
56	10,450.00	-	10,599.99	111.00	~~2,886.00~~
57	10,600.00	-	10,749.99	112.00	~~2,912.00~~
58	10,750.00	-	10,899.99	114.00	~~2,964.00~~
59	10,900.00	-	11,049.99	116.00	~~3,016.00~~

60	11,050.00	-	11,199.99	117.00	~~3,042.00~~
61	11,200.00	-	11,349.99	119.00	~~3,094.00~~
62	11,350.00	-	11,499.99	120.00	~~3,120.00~~
63	11,500.00	-	11,649.99	122.00	~~3,172.00~~
64	11,650.00	-	11,799.99	124.00	~~3,224.00~~
65	11,800.00	-	11,949.99	125.00	~~3,250.00~~
66	11,950.00	-	12,099.99	127.00	~~3,302.00~~
67	12,100.00	-	12,249.99	128.00	~~3,328.00~~
68	12,250.00	-	12,399.99	130.00	~~3,380.00~~
69	12,400.00	-	12,549.99	131.00	~~3,406.00~~
70	12,550.00	-	12,699.99	133.00	~~3,458.00~~
71	12,700.00	-	12,849.99	135.00	~~3,510.00~~
72	12,850.00	-	12,999.99	136.00	~~3,536.00~~
73	13,000.00	-	13,149.99	138.00	~~3,588.00~~
74	13,150.00	-	13,299.99	139.00	~~3,614.00~~
75	13,300.00	-	13,449.99	141.00	~~3,666.00~~
76	13,450.00	-	13,599.99	143.00	~~3,718.00~~
77	13,600.00	-	13,749.99	144.00	~~3,744.00~~
78	13,750.00	-	13,899.99	146.00	~~3,796.00~~
79	13,900.00	-	14,049.99	147.00	~~3,822.00~~
80	14,050.00	-	14,199.99	149.00	~~3,874.00~~
81	14,200.00	-	14,349.99	150.00	~~3,900.00~~
82	14,350.00	-	14,499.99	152.00	~~3,952.00~~
83	14,500.00	-	14,649.99	154.00	~~4,004.00~~
84	14,650.00	-	14,799.99	155.00	~~4,030.00~~
85	14,800.00	-	14,949.99	157.00	~~4,082.00~~
86	14,950.00	-	15,099.99	158.00	~~4,108.00~~
87	15,100.00	-	15,249.99	160.00	~~4,160.00~~
88	15,250.00	-	15,399.99	162.00	~~4,212.00~~
89	15,400.00	-	15,549.99	163.00	~~4,238.00~~
90	15,550.00	-	15,699.99	165.00	~~4,290.00~~
91	15,700.00	-	15,849.99	166.00	~~4,316.00~~
92	15,850.00	-	15,999.99	168.00	~~4,368.00~~
93	16,000.00	-	16,149.99	170.00	~~4,420.00~~

94	16,150.00	-	16,299.99	171.00	~~4,446.00~~
95	16,300.00	-	16,449.99	173.00	~~4,498.00~~
96	16,450.00	-	16,599.99	174.00	~~4,524.00~~
97	16,600.00	-	16,749.99	176.00	~~4,576.00~~
98	16,750.00	-	16,899.99	177.00	~~4,602.00~~
99	16,900.00	-	17,049.99	179.00	~~4,654.00~~
100	17,050.00	-	17,199.99	181.00	~~4,706.00~~
101	17,200.00	-	17,349.99	182.00	~~4,732.00~~
102	17,350.00	-	17,499.99	184.00	~~4,784.00~~
103	17,500.00	-	17,649.99	185.00	~~4,810.00~~
104	17,650.00	-	17,799.99	187.00	~~4,862.00~~
105	17,800.00	-	17,949.99	189.00	~~4,914.00~~
106	17,950.00	-	18,099.99	190.00	~~4,940.00~~
107	18,100.00	-	18,249.99	192.00	~~4,992.00~~
108	18,250.00	-	18,399.99	193.00	~~5,018.00~~
109	18,400.00	-	18,549.99	195.00	~~5,070.00~~
110	18,550.00	-	18,699.99	196.00	~~5,096.00~~
111	18,700.00	-	18,849.99	198.00	~~5,148.00~~
112	18,850.00	-	18,999.99	200.00	~~5,200.00~~
113	19,000.00	-	19,149.99	201.00	~~5,226.00~~
114	19,150.00	-	19,299.99	203.00	~~5,278.00~~
115	19,300.00	-	19,449.99	204.00	~~5,304.00~~
116	19,450.00	-	19,599.99	206.00	~~5,356.00~~
117	19,600.00	-	19,749.99	208.00	~~5,408.00~~
118	19,750.00	-	19,899.99	209.00	~~5,434.00~~
119	19,900.00	-	20,049.99	211.00	~~5,486.00~~
120	20,050.00	-	20,199.99	212.00	~~5,512.00~~
121	20,200.00	-	20,349.99	214.00	~~5,564.00~~
122	20,350.00	-	20,499.99	216.00	~~5,616.00~~
123	20,500.00	-	20,649.99	217.00	~~5,642.00~~
124	20,650.00	-	20,799.99	219.00	~~5,694.00~~
125	20,800.00	-	20,949.99	220.00	~~5,720.00~~
126	20,950.00	-	21,099.99	222.00	~~5,772.00~~
127	21,100.00	-	21,249.99	223.00	~~5,798.00~~

128	21,250.00	-	21,399.99	225.00	~~5,850.00~~
129	21,400.00	-	21,549.99	227.00	~~5,902.00~~
130	21,550.00	-	21,699.99	228.00	~~5,928.00~~
131	21,700.00	-	21,849.99	230.00	~~5,980.00~~
132	21,850.00	-	21,999.99	231.00	~~6,006.00~~
133	22,000.00	-	22,149.99	233.00	~~6,058.00~~
134	22,150.00	-	22,299.99	235.00	~~6,110.00~~
135	22,300.00	-	22,449.99	236.00	~~6,136.00~~
136	22,450.00	-	22,599.99	238.00	~~6,188.00~~
137	22,600.00	-	22,749.99	239.00	~~6,214.00~~
138	22,750.00	-	22,899.99	241.00	~~6,266.00~~
139	22,900.00	-	23,049.99	243.00	~~6,318.00~~
140	23,050.00	-	23,199.99	244.00	~~6,344.00~~
141	23,200.00	-	23,349.99	246.00	~~6,396.00~~
142	23,350.00	-	23,499.99	247.00	~~6,422.00~~
143	23,500.00	-	23,649.99	249.00	~~6,474.00~~
144	23,650.00	-	23,799.99	250.00	~~6,500.00~~
145	23,800.00	-	23,949.99	252.00	~~6,552.00~~
146	23,950.00	-	24,099.99	254.00	~~6,604.00~~
147	24,100.00	-	24,249.99	255.00	~~6,630.00~~
148	24,250.00	-	24,399.99	257.00	~~6,682.00~~
149	24,400.00	-	24,549.99	258.00	~~6,708.00~~
150	24,550.00	-	24,699.99	260.00	~~6,760.00~~
151	24,700.00	-	24,849.99	262.00	~~6,812.00~~
152	24,850.00	-	24,999.99	263.00	~~6,838.00~~
153	25,000.00	-	25,149.99	265.00	~~6,890.00~~
154	25,150.00	-	25,299.99	266.00	~~6,916.00~~
155	25,300.00	-	25,449.99	268.00	~~6,968.00~~
156	25,450.00	-	25,599.99	269.00	~~6,994.00~~
157	25,600.00	-	25,749.99	271.00	~~7,046.00~~
158	25,750.00	-	25,899.99	273.00	~~7,098.00~~
159	25,900.00	-	26,049.99	274.00	~~7,124.00~~
160	26,050.00	-	26,199.99	276.00	~~7,176.00~~
161	26,200.00	-	26,349.99	277.00	~~7,202.00~~

162	26,350.00	-	26,499.99	279.00	~~7,254.00~~
163	26,500.00	-	26,649.99	281.00	~~7,306.00~~
164	26,650.00	-	26,799.99	282.00	~~7,332.00~~
165	26,800.00	-	26,949.99	284.00	~~7,384.00~~
166	26,950.00	-	27,099.99	285.00	~~7,410.00~~
167	27,100.00	-	27,249.99	287.00	~~7,462.00~~
168	27,250.00	-	27,399.99	289.00	~~7,514.00~~
169	27,400.00	-	27,549.99	290.00	~~7,540.00~~
170	27,550.00	-	27,699.99	292.00	~~7,592.00~~
171	27,700.00	-	27,849.99	293.00	~~7,618.00~~
172	27,850.00	-	27,999.99	295.00	~~7,670.00~~
173	28,000.00	-	28,149.99	296.00	~~7,696.00~~
174	28,150.00	-	28,299.99	298.00	~~7,748.00~~
175	28,300.00	-	28,449.99	300.00	~~7,800.00~~
176	28,450.00	-	28,599.99	301.00	~~7,826.00~~
177	28,600.00	-	28,749.99	303.00	~~7,878.00~~
178	28,750.00	-	28,899.99	304.00	~~7,904.00~~
179	28,900.00	-	29,049.99	306.00	~~7,956.00~~
180	29,050.00	-	29,199.99	308.00	~~8,008.00~~
181	29,200.00	-	29,349.99	309.00	~~8,034.00~~
182	29,350.00	-	29,499.99	311.00	~~8,086.00~~
183	29,500.00	-	29,649.99	312.00	~~8,112.00~~
184	29,650.00	-	29,799.99	314.00	~~8,164.00~~
185	29,800.00	-	29,949.99	315.00	~~8,190.00~~
186	29,950.00	-	30,099.99	317.00	~~8,242.00~~
187	30,100.00	-	30,249.99	319.00	~~8,294.00~~
188	30,250.00	-	30,399.99	320.00	~~8,320.00~~
189	30,400.00	-	30,549.99	322.00	~~8,372.00~~
190	30,550.00	-	30,699.99	323.00	~~8,398.00~~
191	30,700.00	-	30,849.99	325.00	~~8,450.00~~
192	30,850.00	-	30,999.99	327.00	~~8,502.00~~
193	31,000.00	-	31,149.99	328.00	~~8,528.00~~
194	31,150.00	-	31,299.99	330.00	~~8,580.00~~
195	31,300.00	-	31,449.99	331.00	~~8,606.00~~

196	31,450.00	-	31,599.99	333.00	~~8,658.00~~
197	31,600.00	-	31,749.99	335.00	~~8,710.00~~
198	31,750.00	-	31,899.99	336.00	~~8,736.00~~
199	31,900.00	-	32,049.99	338.00	~~8,788.00~~
200	32,050.00	-	32,199.99	339.00	~~8,814.00~~
201	32,200.00	-	32,349.99	341.00	~~8,866.00~~
202	32,350.00	-	32,499.99	342.00	~~8,892.00~~
203	32,500.00	-	32,649.99	344.00	~~8,944.00~~
204	32,650.00	-	32,799.99	346.00	~~8,996.00~~
205	32,800.00	-	32,949.99	347.00	~~9,022.00~~
206	32,950.00	-	33,099.99	349.00	~~9,074.00~~
207	33,100.00	-	33,249.99	350.00	~~9,100.00~~
208	33,250.00	-	33,399.99	352.00	~~9,152.00~~
209	33,400.00	-	33,549.99	354.00	~~9,204.00~~
210	33,550.00	-	33,699.99	355.00	~~9,230.00~~
211	33,700.00	-	33,849.99	357.00	~~9,282.00~~
212	33,850.00	-	33,999.99	358.00	~~9,308.00~~
213	34,000.00	-	34,149.99	360.00	~~9,360.00~~
214	34,150.00	-	34,299.99	361.00	~~9,386.00~~
215	34,300.00	-	34,449.99	363.00	~~9,438.00~~
216	34,450.00	-	34,599.99	365.00	~~9,490.00~~
217	34,600.00	-	34,749.99	366.00	~~9,516.00~~
218	34,750.00	-	34,899.99	368.00	~~9,568.00~~
219	34,900.00	-	35,049.99	369.00	~~9,594.00~~
220	35,050.00	-	35,199.99	371.00	~~9,646.00~~
221	35,200.00	-	35,349.99	373.00	~~9,698.00~~
222	35,350.00	-	35,499.99	374.00	~~9,724.00~~
223	35,500.00	-	35,649.99	376.00	~~9,776.00~~
224	35,650.00	-	35,799.99	377.00	~~9,802.00~~
225	35,800.00	-	35,949.99	379.00	~~9,854.00~~
226	35,950.00	-	36,999.99	381.00	~~9,906.00~~
227	36,100.00	-	36,249.99	382.00	~~9,932.00~~
228	36,250.00	-	36,399.99	384.00	~~9,984.00~~
229	36,400.00	-	36,549.99	385.00	~~10,010.00~~

230	36,550.00	-	36,699.99	387.00	~~10,062.00~~
231	36,700.00	-	36,849.99	388.00	~~10,088.00~~
232	36,850.00	-	36,999.99	390.00	~~10,140.00~~
233	37,000.00	-	37,149.99	392.00	~~10,192.00~~
234	37,150.00	-	37,299.99	393.00	~~10,218.00~~
235	37,300.00	-	37,449.99	395.00	~~10,270.00~~
236	37,450.00	-	37,599.99	396.00	~~10,296.00~~
237	37,600.00	-	37,749.99	398.00	~~10,348.00~~
238	37,750.00	-	37,899.99	400.00	~~10,400.00~~
239	37,900.00	-	38,049.99	401.00	~~10,426.00~~
240	38,050.00	-	38,199.99	403.00	~~10,478.00~~
241	38,200.00	-	38,349.99	404.00	~~10,504.00~~
242	38,350.00	-	38,499.99	406.00	~~10,556.00~~
243	38,500.00	-	38,649.99	408.00	~~10,608.00~~
244	38,650.00	-	38,799.99	409.00	~~10,634.00~~
245	38,800.00	-	38,949.99	411.00	~~10,686.00~~
246	38,950.00	-	39,099.99	412.00	~~10,712.00~~
247	39,100.00	-	39,249.99	414.00	~~10,764.00~~
248	39,250.00	-	39,399.99	415.00	~~10,790.00~~
249	39,400.00	-	39,549.99	417.00	~~10,842.00~~
250	39,550.00	-	39,699.99	419.00	~~10,894.00~~
251	39,700.00	-	39,849.99	420.00	~~10,920.00~~
252	39,850.00	-	39,999.99	422.00	~~10,972.00~~
253	40,000.00	-	40,149.99	423.00	~~10,998.00~~
254	40,150.00	-	and above	424.00	~~11,024.00~~

The bill was then ordered to third reading.

S. B. 10, Relating to WVU Rifle Team electronic application donation program; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Committee on Finance, was reported by the Clerk on page 1, following the enacting clause, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

"**ARTICLE 2. WILDLIFE RESOURCES.**

§20-2-33c. Electronic application donation to West Virginia University Rifle Team; special fund created; authorized disbursements.

(a) Every electronic application for a hunting or fishing license shall include a solicitation for a voluntary donation to the West Virginia University Rifle Team.

(b) The license applicant will be offered an opportunity to designate a donation in any amount to the West Virginia University Rifle Team. The Director of the Division of Natural Resources shall deposit any donations made by an applicant to the special revenue account created in subsection (c) of this section.

(c) There is created in the State Treasury a special revenue fund known as the West Virginia University Rifle Team Program Fund. The fund shall be comprised of all moneys donated through an electronic application for a hunting or fishing license as authorized by this section, any moneys appropriated by the Legislature, and any income from the investment of money held in the fund. The fund shall operate as a special revenue fund and all deposits and payments into the fund do not expire to the General Revenue Fund but shall remain in the account and be available for expenditure in succeeding fiscal years.

(d) Expenditures from the West Virginia University Rifle Team Program Fund shall be for the purposes set forth in this section. The moneys in the West Virginia University Rifle Team Program Fund will be paid out at least annually by the Director of the Division of Natural Resources to the West Virginia University Foundation Rifle Team Account: *Provided,* That the Division of Natural Resources shall deduct no more than five percent of donations derived under this section as an administrative fee to recover processing costs prior to transferring any money to the West Virginia University Foundation Rifle Team Account: *Provided, however,* That the Division of Natural Resources is absolved of all responsibilities established pursuant to this section if the West Virginia University Rifle Team ceases to exist.

(e) The Division of Natural Resources shall, following the close of each fiscal year, prepare an annual report detailing the categories of expenditures from the West Virginia University Rifle Team Program Fund and listing all sources of revenue as well as a closing balance for the year. The report shall be submitted in an electronic format to the Joint Committee on Government and Finance no later than eight weeks after the close of the fiscal year."

On motion of Delegate Statler, the committee amendment was amended on page 1, section §20-2-33c, line 17, following the word "University" by striking the word "Foundation"

And,

On page 2, section §20-2-33c, line 20, following the word "University" by striking the word "Foundation"

The amendment recommended by the Committee on Finance, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 138, Relating to Board of Medicine composition; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page 1 by striking everything after the enacting clause and inserting in lieu thereof:

"**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, 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, the practice of podiatry, and for physician assistants in this state.

The board shall consist of ~~sixteen~~ 15 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~~ 14 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~~ one 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, neglect of duty, or gross immorality: *Provided,* That the expiration, surrender, or revocation of the professional license by the board of a member of the board shall cause the membership to immediately and automatically terminate."

The bill was then ordered to third reading.

Com. Sub. for S. B. 205, Expanding PEIA Finance Board membership; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 228, Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 230, Relating generally to public employees grievance procedure; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page 13, section 6, line 6, by striking the words "actual attorney's fees and costs not to exceed $1,000" and inserting in lieu thereof "attorney's fees and costs not to exceed a combined total of $1,000"

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill, as follows:

on page 5, section 3, lines 2 and 3, by striking the words "and notarized"

and

on page 5, section 3, line 4, by striking the words "and notarized"

and

on page 5, section 3, line 5, by striking the words "and notarized"

and

on page 5, section 3, line 6, by striking the words "and notarize"

The bill was then ordered to third reading.

Com. Sub. for S. B. 232, Relating to punishment for third offense felony; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 242, Restricting authority to prevent or limit owner's use of natural resources or real property in certain agricultural operations; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 246, Requiring newly constructed public schools and public schools with major improvements to have water bottle filling stations; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page two, section two, line seven, following the word "furnishings" and the semicolon, by inserting the word "and";

On page two, section two, line nine, following the word "operational", by striking out the semicolon and inserting in lieu thereof a period;

On page two, section two, line ten, by striking out the paragraph designation "(D)";

And,

On page three, section three, line twenty-six, following the words "boards shall", by inserting the words "adopt a policy to".

The bill was then ordered to third reading.

Com. Sub. for S. B. 247, Relating to certified community behavioral health clinics; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 262, Relating generally to financial institutions engaged in boycotts of energy companies; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

"**ARTICLE 1C. FINANCIAL INSTITUTIONS ENGAGED IN BOYCOTTS OF ENERGY COMPANIES.**

§12-1C-1. DEFINITIONS.

For the purposes of this article, the following terms shall have the following meanings:

'Banking contract' means a contract entered into by the Treasurer and a financial institution pursuant to this chapter, to provide banking goods or services to a spending unit.

'Boycott of energy companies' means without a reasonable business purpose, refusal to deal with a company, termination of business activities with a company, or another action that is

intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company:

(A) Engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy;

(B) Engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or

(C) Does business with a company that engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy.

'Company' means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations, that exist for the purpose of making profit.

'Financial institution' means a bank, national banking association, non-bank financial institution, 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.

'Reasonable business purpose' includes any purpose directly related to:

(A) Promoting the financial success or stability of a financial institution;

(B) Mitigating risk to a financial institution;

(C) Complying with legal or regulatory requirements; or

(D) Limiting liability of a financial institution.

'Restricted financial institution' means a financial institution included in the most recently updated restricted financial institution list.

'Restricted financial institution list' means the list of financial institutions prepared, maintained, and published pursuant to this article.

'Treasurer' refers to the West Virginia State Treasurer.

§12-1C-2. Restricted financial institutions list.

(a) The Treasurer is authorized to prepare and maintain a list of financial institutions that are engaged in a boycott of energy companies.

(b) The Treasurer must publicly post the restricted financial institution list on the Treasurer's website and submit a copy of the list to the Governor, the President of the Senate, and the Speaker of the House of Delegates.

(c) A citation to this article and a brief summary of the purpose of the list must appear at the top of the list, including a statement that inclusion on the list is not an indication of unsafe or unsound operating conditions of any financial institution nor any risk to consumer deposits.

(d) The Treasurer must update the restricted financial institution list annually, or more often as the Treasurer considers necessary.

§12-1C-3. Notice to financial institutions.

(a) Forty-five days prior to including a financial institution on the restricted financial institution list, the Treasurer must send a written notice to the institution containing the following information:

(1) That the Treasurer has determined that the financial institution is a restricted financial institution;

(2) That the financial institution will be placed on the restricted financial institution list in 45 days unless, within 30 days following the receipt of the written notice, the restricted financial institution demonstrates that it is not engaged in a boycott of energy companies;

(3) That the restricted financial institution list is published on the Treasurer's website; and

(4) That the institution's placement on the list may render the institution ineligible to enter into, or remain in, banking contracts with the State of West Virginia.

(b) Following a restricted financial institution's inclusion on the restricted financial institution list, the Treasurer will remove the institution from the list if the institution demonstrates that it has ceased all activity that boycotts energy companies.

§12-1C-4. Sources of Information.

(a) In determining whether to include a financial institution on the restricted financial institution list, the Treasurer shall consider and may rely upon the following information:

(1) A financial institution's certification that it is not engaged in a boycott of energy companies;

(2) Publicly available statements or information made by the financial institution, including statements by a member of a financial institution's governing body, an executive director of a financial institution, or any other officer or employee of the financial institution with the authority to issue policy statements on behalf of the financial institution; or

(3) Information published by a state or federal government entity.

(b) In determining whether to include a financial institution on the restricted financial institution list, the Treasurer may not rely solely on the following information:

(1) Statements or complaints by an energy company; or

(2) Media reports of a financial institution's boycott of energy companies.

(c) A financial institution may not be compelled to produce or disclose any data or information deemed confidential, privileged, or otherwise protected from disclosure by state or federal law.

§12-1C-5. Restricted financial institutions.

(a) In selecting a financial institution to enter into a banking contract, the Treasurer is authorized to disqualify restricted financial institutions from the competitive bidding process or from any other official selection process.

(b) The Treasurer is authorized to refuse to enter into a banking contract with a restricted financial institution based on its restricted financial institution status.

(c) The Treasurer is authorized to require, as a term of any banking contract, an agreement by the financial institution not to engage in a boycott of energy companies for the duration of the contract.

§12-1C-6. Limitation on Liability.

With respect to actions taken in compliance with this article, a public agency, public official, public employee, or member or employee of a financial institution is immune from liability.

§12-1C-7. Exemptions.

The provisions of this section do not apply to the duties, actions, and transactions of the West Virginia Investment Management Board as set forth in §12-6-1 *et seq.* of this code."

The bill was then ordered to third reading.

Com. Sub. for S. B. 264, Relating to conservation districts law of WV; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 268, Creating exemption from compulsory school attendance for child who participates in learning pod or micro school; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Education, was reported by the Clerk on page 7, section 1, line 159 after the word "together" by striking out the words "in a group of up to 100 students"

And,

On page 7, section 1, line 163, after the word "school" by striking out the words "of up to 100 students"

And,

On page 8, section 1, line 164, after the word "school" by striking out the words "of up to 100 students"

And,

On page 10, section 1, line 232, after the words "provisions of" by striking out the words "section eleven, article twenty, chapter eighteen" and inserting in lieu thereof "§18-20-11".

Delegates Thompson, Hornbuckle, Walker, Evans and Doyle moved to amend the amendment on line 2, following the words "word "together"" by striking out the remainder of the amendment and inserting in lieu thereof, the following:

"by striking out the number "100" and inserting in lieu thereof, the number "25";

And,

On page 8, section 1, line 163, after the words "school of up to" by striking out the number "100" and inserting in lieu thereof, the number "25";

And,

On page 8, section 1, line 164, after the words "school of up to" by striking out the number "100 "and inserting the number "25";

And,

On page 10, section 1, line 232, after the words "provisions of" by striking out the words "section eleven, article twenty, chapter eighteen" and inserting in lieu thereof "§18-20-11".

On the adoption of the amendment to the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken **(Roll No. 536)**, and there were—yeas 27, nays 68, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Barach, Bates, Boggs, Brown, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Forsht, Garcia, Griffith, Hansen, Hornbuckle, Pethtel, Pushkin, Rowan, Rowe, Thompson, Tully, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Barrett, Booth, Pack, Reynolds and Skaff.

So, a majority of the members present not having voted in the affirmative, the amendment to the amendment was rejected.

On the adoption of the amendment recommended by the Committee on Education, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken **(Roll No. 537)**, and there were—yeas 49, nays 47, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Barach, Barnhart, Boggs, Brown, Capito, Conley, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Gearheart, Griffith, Hansen, Holstein, Honaker, Hornbuckle, D. Kelly, J. Kelly, Lovejoy, Mandt, Martin, Paynter, Pethtel, Pushkin, Reed, Reynolds, Riley, Rohrbach, Rowan, Rowe, Smith, Statler,

Storch, Thompson, Toney, Tully, Walker, Wamsley, Westfall, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Barrett, Booth, Pack and Skaff.

So, a majority of the members present having voted in the affirmative, the amendment was adopted.

Delegates Evans, Hornbuckle, Thompson, Walker and Doyle moved to amend the bill on page 10, section 1, line 235, following the period by inserting a new subsection to read as follows:

"(10) To assure the health and safety standards are met for facilities where students attend school, each micro-school, as a condition of authorization by the county board of education, shall receive certification that the facility meets minimum health and safety, special education services, and any applicable state or federal school requirements. Upon receipt of an application for the establishment of a micro-school, a County Board of Education shall establish a "Micro-school Safety Board" to certify that any facility used as a micro school meets applicable standards. The Board shall be appointed by the County Board of Education and consist of three members. (1) A parent or guardian of a student attending the school; (2) A representative of the state Fire Marshal's office, and (3) A member of the county school board. This Board shall inspect each facility and assure that all applicable state and federal laws relating to its operation are met. Upon certification by the Micro -School Safety Board the county board of education shall issue authorization for the micro school's operation."

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken **(Roll No. 538)**, and there were—yeas 24, nays 73, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Barach, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Gearheart, Griffith, Hansen,

Hornbuckle, J. Kelly, Lovejoy, Pethtel, Pushkin, Rowe, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Martin, Pack and Skaff.

So, a majority of the members present not having voted in the affirmative, the amendment was rejected.

Delegates Doyle, Hornbuckle, Evans, Thompson, Griffith and Walker moved to amend the bill on page 8, section 1, line 166, following the words "learning pod" by striking out the period, inserting a semi-colon and the following proviso:

"P*rovided*, That no entity that previously was rejected for authorization as a charter school may apply to be a micro-school."

The question being on the adoption of the amendment, the same was put and did not prevail.

The bill was then ordered to third reading.

Com. Sub. for S. B. 312, Authorization for Department of Revenue to promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Government Organization, was reported by the Clerk and adopted, amending the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

"**ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF REVENUE TO PROMULGATE LEGISLATIVE RULES.**

§64-7-1. Alcohol Beverage Control Commission.

(a) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §60-2-16 of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the Alcohol Beverage Control Commission (Private Club

Licensing, 175 CSR 02), is authorized; with the following amendments:

On page six, subsection 2.22.5a after the words "wine that a member purchased" by removing the following new language "from a wine retailer, wine specialty shop, an applicable winery or farm winery when licensed for retail sales, or a licensed wine direct shipper" and,

On page 17, subsection 3.1.7 by striking the language "being a suitable person, being of good morals and character" and inserting in lieu thereof the following:

"not have been convicted of a felony in the previous five years before the date of application, not have been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and not have been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years" and,

On page 18, subsection 3.2.1.e. by striking the words "suitable persons" and inserting in lieu thereof the following:

"persons that have not been convicted of a felony in the previous five years before the date of application, not have been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and not have been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years" and,

On page 18, subsection 3.2.2.a, by striking the language "Is not a person of good moral character or repute" and inserting in lieu thereof the following:

"Has not been convicted of a felony in the previous five years before the date of application, has not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and has not been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years" and

On page 18, subdivision 3.2.2.d, by striking "has the general reputation of drinking alcoholic beverages or nonintoxicating to excess, or is addicted to the use of controlled substances;" in its entirety and renumbering the remaining subdivisions as appropriate, and

On page 18, subdivision 3.2.3.b, by striking out the words "moral turpitude" and inserting in lieu thereof the following:

"fraud, dishonesty, or deceit" and,

On page 20, subsection 3.2.6, by striking the words "or its officers and directors who have been convicted of a felony or a crime involving moral turpitude" and,

On page 23, subdivision 3.4.6.c.1, by striking the following: "(which does not include a metal crowler that is canned)" and,

On page 23, subdivision 3.4.6.c.2.B, by striking the new language "110%" and inserting in lieu thereof the "the required" and,

On page 26, subdivision 3.4.6.e.5, by adding after the word "requirements" the following:

" – The delivery person must permit only the person who placed the delivery order through telephone order, mobile ordering application, or web-based software to accept the prepared food or meal and a craft cocktail growler delivery. The delivery person must verify the person's age using the person's legal identification. The delivery must otherwise comply with W. Va. Code §60-7-8f(f)." And,

On page 26, by striking out subdivision 3.4.6.e.5.A in its entirety, and,

On page 26, by striking out subdivision 3.4.6.e.5.A.i in its entirety, and,

On page 26, by striking out subdivision 3.4.6.e.5.A.ii in its entirety, and,

On page 26 and continuing through page 27, by striking out subdivision 3.4.6.e.5.A.iii in its entirety, and,

On page 27, by striking out subdivision 3.4.6.e.5.B in its entirety, and,

On page 27, subdivision 3.4.6.e.6.B, after the words "transportation permit" by striking out "and pay the transportation permit fee, $10 for the first transporting vehicle and a one dollar for every transporting vehicle thereafter," and

On page 28, subdivision 3.4.11.a, by striking out the word "limited" and striking out the words "(ex. Recorded music or limited live music, such as a solo musician, for ambiance)" and

On page 28, subdivision 3.4.11.a, by striking out after the words "outdoor dining area" the comma and "however, in the Commissioner's determination, any entertainment or alcohol beverage service that has the appearance or function as a festival, event, concert, or in any other manner exceeds what is necessary for private outdoor dining, then such entertainment or alcoholic beverage service shall be denied" and inserting in lieu thereof the following:

"The Commissioner may determine not to authorize entertainment but must provide a written statement indicating why such entertainment is not authorized" and,

On page 28, subdivision 3.4.11.b, by striking out the word "limited" and striking out the words "(ex. Recorded music or limited live music, such as a solo musician, for ambiance)" and,

On page 28, subdivision 3.4.11.b, by striking out after the words "outdoor street dining area" the comma and "however, in the Commissioner's determination, any entertainment or alcohol beverage service that has the appearance or function as a festival, event, concert, or in any other manner exceeds what is necessary for private outdoor dining, then such entertainment or alcoholic beverage service shall be denied" and inserting in lieu thereof the following:

"The Commissioner may determine not to authorize entertainment but must provide a written statement indicating why such entertainment is not authorized."

(b) The Legislature directs the Alcohol Beverage Control Commission to amend the legislative rule filed in the State Register on June 23, 2008, authorized under the authority of §60-2-16 of this code, relating to the Alcohol Beverage Control Commission (Bailment Policies and Procedures, 175 CSR 06) with the amendment set forth below:

On page nine, subsection 11.1, by striking "The amount of such charges will be imposed by administrative notices filed in the State Register."; and inserting in lieu thereof the following:

"The amount of such charges will be approved by the Legislature, pursuant to W. Va. Code §29A-3-1, then filed in the State Register."

(c) The legislative rule filed in the State Register on July 28, 2021, authorized under the authority of §11-16-22 of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the Alcohol Beverage Control Commission (Nonintoxicating Beer Licensing and Operations Procedures, 176 CSR 01), is authorized with the following amendments:

On page 8, subdivision 3.1.b, by striking out the word "credit" and

On page 8, subdivision 3.1.e, by striking out the words "being a suitable person, being of good morals and character" and inserting in lieu thereof:

"not have been convicted of a felony in the previous five years before application, not have been convicted of a crime involving fraud, dishonesty, and deceit in the previous five years before application, not have been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years before application" and

On page 12, section 3.4, by striking the section heading "3.4.a" and the section headings for "3.4.b" and "3.4.c" and renumbering those section accordingly, and

On page 13 and continuing to page 14, subdivision 3.6.b.1, after the word "citizen", by striking, "and a person of good moral character" and inserting in lieu thereof:

"and has not been convicted of a felony in the previous five years before application, has not been convicted of a crime involving fraud, dishonesty, and deceit in the previous five years before application, and has not been convicted of a felony crime for violating alcohol-related distribution laws in the previous five years before application." And

On page 14, subdivision 3.6.3.e.3.B by adding the word "and" at the end of the sentence and entering down to create a new subdivision as follows:

"3.6.e.3.C. that this requirement does not apply to a school or church that has notified the Commissioner, in writing, that it has not objection to the location of a proposed business;" and,

On page 15, subsection 3.6.j, by striking out the words "are suitable persons of good reputation and morals to be licensed" and inserting in lieu thereof:

"have not been convicted of a felony in the previous five years before application, have not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and have not been convicted of a felony crime violating alcohol-related distribution laws in the previous five years before application to be licensed;" and,

On page 15, subdivision 3.8.c by striking out the words "is an unsuitable person to be licensed" and inserting in lieu thereof the following:

"has not been convicted of a felony in the previous five years before application, has not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before

application, and has not been convicted of a felony crime violating alcohol-related distribution laws in the previous five years before application to be licensed" and

On page 19, subdivision 3.11.f.6, by adding after the colon the following:

"The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the delivery of food and nonintoxicating beer or nonintoxicating craft beer and the delivery driver must verify the person's legal identification to ensure the person accepting the delivery is at least 21 years of age. A record of the delivery and of verifying the person's identification must be created and retained for at least 3 years." And,

On page 19 by deleting subdivision 3.11.f.6.A in its entirety, and

On page 19 by deleting subdivision 3.11.f.6.A.i in its entirety, and

On page 19 by deleting subdivision 3.11.f.6.A.ii in its entirety, and

On page 19 by deleting subdivision 3.11.f.6.A.iii in its entirety, and

On page 19, by deleting subdivision 3.11.f.6.B in its entirety, and

On page 19, by deleting subdivision 3.11.f.6.C in its entirety, and

On page 19 and page 20 by renumbering subdivision 3.11.f.6.D and subdivision 3.11.f.6.E, to 3.11.f.6.A and 3.11.f.6.B respectively.

On page 21, subdivision 3.11.g.6. by adding after the colon the following:

"The delivery person may only permit the person who placed the order through a telephone, mobile ordering application, or web-based software to accept the delivery of food and nonintoxicating beer or nonintoxicating craft beer and the delivery driver must verify the person's legal identification to ensure the person accepting the delivery is at least 21 years of age. A record of the delivery and of verifying the person's identification must be created and retained for at least 3 years." And,

On page 21, by deleting subdivision 3.11.g.6.A in its entirety, and

On page 21, by deleting subdivision 3.11.g.6.A.i in its entirety, and

On page 21, by deleting subdivision 3.11.g.6.A.ii in its entirety, and

On page 21, by deleting subdivision 3.11.g.6.A.iii in its entirety, and

On page 21, by renumbering subdivision 3.11.g.6.B and 3.11.g.6.C to 3.11.g.6.A and 3.11.g.6.B, respectively, and

On page 22, subdivision 3.11.h.3, by striking the word "limited" and striking, after the comma "like recorded music for ambiance" and inserting, after the comma, in lieu thereof the following:

"however, if the Commissioner denies entertainment the Commissioner must provide an explanation for denying such entertainment." And

On page 22, subdivision 3.11.i.3, by striking the word "limited" and striking, after the comma, "like recorded music for ambiance" and inserting, after the comma, in lieu thereof the following:

"however, if the Commissioner denies entertainment the Commissioner must provide an explanation for denying such entertainment." And

On page 23, subdivision 3.11.k.3.B, by adding after the words "or home brewer's license" a comma and the following "if applicable" and,

On page 24, subdivision 3.11.k.4.C by adding after the word Commissioner a comma and the following: "except that if an unlicensed brewer is licensed in its domicile state and is in good standing, no criminal background checks may be required for the temporary one-day license."

On page 24, subdivision 3.12.d, by striking the word "suitable" and,

On page 25, subdivision 3.12.d.6 by striking everything and inserting in lieu thereof:

"has not been convicted of a felony in the previous five years before application, has not been convicted of a crime involving fraud, dishonesty, or deceit in the previous five years before application, and has not been convicted of a felony crime violating alcohol-related distribution laws in the previous five years before application;" and,

On page 26, subdivision 3.14.b by adding, after the words "bond forfeiture" a comma and the words "if applicable," and

On page 31, subdivision 6.1.b, by striking the words "known to be insane or known to be a habitual drunkard" and inserting in lieu thereof: "known to be mentally incompetent"

§64-7-2. Insurance Commission.

(a) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §33-12B-12 of this code, relating to the Insurance Commission (Continuing Education for Individual Insurance Producers and Individual Insurance Adjusters, 114 CSR 42), is authorized.

(b) The legislative rule filed in the State Register on March 31, 2021, authorized under the authority of §33-7-9 of this code,

relating to the Insurance Commission (Adoption of Valuation Manual, 114 CSR 98), is authorized.

(c) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §33-51-8 of this code, relating to the Insurance Commission (Pharmacy Auditing Entities and Pharmacy Benefit Managers, 114 CSR 99), is authorized.

(d) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §33-4-15a of this code, relating to the Insurance Commission (Term and Universal Life Insurance Reserve Financing, 114 CSR 102), is authorized.

(e) The legislative rule filed in the State Register o July 9, 2021, authorized under the authority of §51-10-8 of this code, modified by the Insurance Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 24, 2021, relating to the Insurance Commission (Bail Bondsmen in Criminal Cases, 114 CSR 103), is authorized.

§64-7-3. Lottery Commission

(a) The legislative rule filed in the State Register on July 7, 2021, authorized under the authority of §29-22-5 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 September 27, 2021, relating to the Lottery Commission (West Virginia Lottery State Lottery Rules, 179 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §29-22B-402 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 September 27, 2021, relating to the Lottery Commission (West Virginia Lottery Limited Video Lottery Rule, 179 CSR 05), is authorized.

§64-7-4. Racing Commission.

(a) The legislative rule filed in the State Register on July 28, 2021, authorized under the authority of §19-23-6 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 December 8, 2021, relating to the Racing Commission (Thoroughbred Racing, 178 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on April 30, 2021, authorized under the authority of §19-23-6 of this code, relating to the Racing Commission (Pari-Mutuel Wagering, 178 CSR 05), is authorized.

§64-7-5. Tax Department.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §11-1C-10 of this code, relating to the Tax Department (Valuation of Producing and Reserve Oil, Natural Gas Liquids, and Natural Gas for Ad Valorem Property Tax Purposes, 110 CSR 01J), is not authorized.

(b) The legislative rule filed in the State Register on July 8, 2021 authorized under the authority of §11-13KK-13 of this code, modified by the State Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 7, 2021 relating to the State Tax Department (West Virginia Tax Credit for Federal Excise Tax Imposed Upon Small Arms and Ammunition Manufacturers, 110 CSR 13KK), is authorized.

(c) The legislative rule filed in the State Register on June 30, 2021, authorized under the authority of §11-15-9s of this code, modified by the Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 21, 2021, relating to the Tax Department (Sales Tax Holiday, 110 CSR 15F), is authorized.

(d) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §11-15-9t of this code, modified by the State Tax Department to meet the objections of the

Legislative Rule-Making Review Committee and refiled in the State Register on September 7, 2021, relating to the State Tax Department (Exemption for Repair, Remodeling, and Maintenance of Aircraft, 110 CSR 15L), is authorized.

(e) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §11-15A-8 of this code, relating to the Tax Department (Vendor Absorption or Assumption of Sales and Use Tax, 110 CSR 15M), is authorized.

(f) The legislative rule filed in the State Register on July 8, 2021, authorized under the authority of §11-15A-8 of this code, relating to the Tax Department (On-line Bingo and Raffles, 110 CSR 16A), is authorized with the following amendments:

On page four, subsection 8.1, by striking out the words "A licensee may only use bingo equipment or raffle equipment," and inserting in lieu thereof the words "A bingo licensee may use only bingo equipment,";

On page four, after subsection 8.1, by adding a new subsection 8.2 to read as follows:

8.2. A raffle licensee may use only raffle equipment, including software or programming for conducting raffles on-line over the Internet, which the licensee owns or which it borrows without compensation, or leases for a reasonable and customary amount from a wholesaler or distributor of raffle boards and games licensed under W. Va. Code §47-23-3.

And,

By renumbering the remaining subsections.

(g) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §11-24-6b of this code, modified by the Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 21, 2021, relating to the Tax Department (Corporation Net Income Tax, 110 CSR 24), is authorized

The bill was then ordered to third reading.

Com. Sub. for S. B. 334, Authorizing miscellaneous agencies and boards to promulgate rules; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization and sponsored by Delegate Foster, was reported by the Clerk on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

"**ARTICLE 9. AUTHORIZATION FOR MISCELLANOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.**

§64-9-1. Commissioner of Agriculture.

(a) The legislative rule filed in the State Register on July 19, 2021, authorized under the authority of §19-9A-7 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 October 5, 2021, relating to the Commissioner of Agriculture (Feeding of Untreated Garbage to Swine, 61 CSR 01A), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §19-14-3 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 January 3, 2022, relating to the Commissioner of Agriculture (Commercial Feed, 61 CSR 05), is authorized with the amendment set forth below:

On page 14, subsection 11.4, after the word "may" by deleting the word "NOT".

(c) The legislative rule filed in the State Register on July 28, 2021, authorized under the authority of §19-11A-10 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 August 31, 2021, relating to the

Commissioner of Agriculture (Enrichment of Flour and Bread Law Regulations, 61 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on July 28, 2021, authorized under the authority of §19-16-7 of this code, relating to the Commissioner of Agriculture (Fruits and Vegetables: Certification of Potatoes for Seedling Purposes, 61 CSR 08C), is authorized.

(e) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §19-37-3 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 October 5, 2021, relating to the Commissioner of Agriculture (Fresh Food Act, 61 CSR 10), is authorized.

(f) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §19-2C-3a 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 October 5, 2021, relating to the Commissioner of Agriculture (Auctioneers, 61 CSR 11B), is authorized, with the following amendments:

On page 8, subdivision 16.1, by striking "two hundred dollars ($200)" and inserting in lieu thereof "$60" and,

On page 8 subdivision 16.3, by striking "two hundred dollars ($200)" and inserting in lieu thereof "$60" and,

On page 9, subdivision 16.6 by striking "two hundred dollars ($200)" and inserting in lieu thereof "$60" and,

On page 9, subdivision 16.7, by striking "two hundred dollars ($200)" and inserting in lieu thereof "$60"

(g) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-12E-7 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 October 5, 2021, relating to the Commissioner of Agriculture (Hemp Products, 61 CSR 30), is authorized.

(h) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-1C-4 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 January 3, 2022, relating to the Commissioner of Agriculture (Livestock Care Standards , 61 CSR 31), is authorized with the amendments set forth below:

On page 2, subsection 2.15, by striking out "2018" and inserting in lieu thereof "2020";

On page 6, subdivision 13.2.a., by striking out the "5" and inserting in lieu thereof a "9";

On page 7, subsection 13.12., by striking out the word "and";

On page 7, subsection 13.13., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 7, after subsection 13.13, by adding a new subsection 13.14. to read as follows:

"13.14. Any other widely accepted practices.";

On page 9, subdivision 14.4.p., by striking out the word "and";

On page 9, subdivision 14.4.q., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 9, after subdivision 14.4.q., by adding a new subdivision 14.q.r. to read as follows:

"14.q.r. Any other widely accepted practices.";

On page 11, subdivision 15.6.j., by striking out the word "and";

On page 11, subdivision 15.6.k., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 11, after subdivision 15.6.k. by adding a new subdivision 16.6.l. to read as follows:

"16.6.l. Any other widely accepted practices.";

On page 12, paragraph 16.2.a.6., by striking out the word "and";

On page 12, paragraph 16.2.a.7., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 12, after paragraph 14.2.a.7., by adding a new paragraph 16.2.a.8. to read as follows:

"16.2.a.8. Any other widely accepted practices.";

On page 12, paragraph 16.2.b.7., by striking out the word "and";

On page 12, paragraph 16.2.b.8., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page twelve, after paragraph 16.2.b.8. by adding a new paragraph 16.2.b.9. to read as follows:

"16.2.b.9. Any other widely accepted practices.";

On page 12, paragraph 16.2.c.2., by striking out the word "and";

On page 12, paragraph 16.2.c.3., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 12, after paragraph 16.2.c.3., by adding a new paragraph 16.2.c.4. to read as follows:

"16.2.c.4. Any other widely accepted practices.";

On page 13, subdivision 17.3.j., by striking out the word "and";

On page 13, subdivision 17.3.k., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

On page 13, after subdivision 17.3.k., by adding a new subdivision 17.3.l. to read as follows:

"17.3.l. Any other widely accepted practices.";

On page 14, paragraph 18.3.d.2., by striking out the word "and";

On page 14, subdivision 18.3.e., by striking out the period and inserting in lieu thereof a semicolon and the word "or";

And,

On page 14, after subdivision 18.3.e., by adding a new subsection 18.3.f., to read as follows:

"18.3.f. Any other widely accepted practices."

(i) The legislative rule filed in the State Register on July 27, 2021, authorized under the authority of §19-1-11 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 October 5, 2021, relating to the Commissioner of Agriculture (Rural Rehabilitation Program, 61 CSR 33), is authorized.

(j) The legislative rule filed in the State Register on July 19, 2021, authorized under the authority of §11-13DD-5 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 October 5, 2021, relating to the Commissioner of Agriculture (Farm-to-Food Bank Tax Credit, 61 CSR 36), is authorized.

(k) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-35-4 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 October 5, 2021, relating to the Commissioner of Agriculture (Farmers Markets, 61 CSR 38), is authorized with the amendments set forth below:

On page 11, subdivision 8.1.d by striking out the words "holding a Food Handler's Card;

And,

On page 11, subdivision 8.1.d, after the word "completed" by inserting the words "Better Process Control School or".

(l) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §19-16-6 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 October 6, 2021, relating to the Commissioner of Agriculture (Seed Certification, 61 CSR 39), is authorized.

§64-9-2. State Auditor.

(a) The legislative rule filed in the State Register on January 3, 2022, authorized under the authority of §11-8-9 of this code, modified by the Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 10, 2022, relating to the Auditor (Procedure for Local Levying Bodies to Apply for Permission to Extend Time to Meet as Levying Body, 155 CSR 08), is authorized.

(b) The legislative rule filed in the State Register on September 13, 2021, authorized under the authority of §12-4-14 of this code, modified by the Auditor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 3, 2022, relating to the Auditor (Accountability Requirements for State Funds and Grants, 155 CSR 09), is authorized.

§64-9-3. West Virginia Board of Chiropractic Examiners.

(a) The Legislature directs the West Virginia Board of Chiropractic Examiners to amend the legislative rule filed in the State Register on April 1, 2014, authorized under the authority of §30-16-5 of this code, relating to the West Virginia Board of

Chiropractic Examiners (Fees Established by the Board, 4 CSR 06) with the amendments set forth below:

On page one, after subsection 1.4., by adding a new subsection 1.5. to read as follows:

"1.5. Sunset Provision. — This rule shall terminate and have no further force or effect on August 1, 2027.";

On page one, subdivision 6.2.1, after the words "in West Virginia is," by striking out "$300", and inserting in lieu thereof "$261";

On page one, subdivision 6.2.1.,after the words "chiropractors is," by striking out "$150" and inserting in lieu thereof "$130";

On page one, subdivision 6.2.2 by striking out "$200", and inserting in lieu thereof "$175";

On page one, subdivision 6.2.3 by striking out "$200", and inserting in lieu thereof "$175";

On page one, subdivision 6.2.4, after the words "articles of incorporation," by striking out "$150", and inserting in lieu thereof "$130";

On page one, subdivision 6.2.4., after the words "limited liability company is," by striking out "$150", and inserting in lieu thereof "$130";

One page one, subdivision 6.2.4., after the words "annual renewal fee of," by striking out "$150", and inserting in lieu thereof "$130";

On page one, subdivision 6.2.5, after the words "examination fee is," by striking out "$150", and inserting in lieu thereof "$130";

On page one, subdivision 6.2.5., after the words "and a fee of," by striking out "$50" and inserting "$45.";

On page one, subdivision 6.2.6 by striking out "$50", and inserting in lieu thereof "$45";

On page one, subdivision 6.2.7 by striking out "$100", and inserting in lieu thereof "$87";

On page one, subdivision 6.2.8 by striking out "$50", and inserting in lieu thereof "$45";

And,

On page one, subdivision 6.2.2 by striking out "$250", and inserting in lieu thereof "$218";

(b) The legislative rule filed in the State Register on July 13, 2021, authorized under the authority of §30-16-5 of this code, modified by the West Virginia Board of Chiropractic Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 15, 2021, relating to the West Virginia Board of Chiropractic Examiners (Chiropractic Telehealth Practice, 4 CSR 09), is authorized.

§64-9-4. West Virginia Contractor Licensing Board.

The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-42-5 of this code, modified by the West Virginia Contractor Licensing Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 9, 2021, relating to the West Virginia Contractor Licensing Board (Contractor Licensing Act, 28 CSR 02), is authorized with the amendment set forth below:

On page 1, subsection 3.2, after the word "public." by adding a new sentence to read as follows: "If a contractor maintains an internet website, any advertisement by the contractor may direct potential customers to the contractor's online landing page for a link to the information required by W. Va. Code §30-42-6(b)."

§64-9-5. West Virginia Board of Examiners in Counseling.

(a) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling

to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Licensing Rule, 27 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Licensed Professional Counselors Fees Rule, 27 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Marriage and Family Therapist Licensing Rule, 27 CSR 08), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-31-6 of this code, modified by the West Virginia Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Examiners in Counseling (Marriage and Family Therapist Fees Rule, 27 CSR 09), is authorized.

§64-9-6. Dangerous Wild Animal Board.

The legislative rule filed in the State Register on April 5, 2021, authorized under the authority of §19-34-3 of this code, relating to the Dangerous Wild Animal Board (Dangerous Wild Animal, 74 CSR 01), is authorized.

§64-9-7. West Virginia Board of Dentistry.

(a) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Rule for the West Virginia Board of Dentistry, 5 CSR 01), is authorized with the amendments set forth below:

On page 2, subsection 3.3, after the words "certification of the dean of the dental school" by inserting the words "or program director of a dental residency program";

On page 2, subsection 3.3, after the word "staff at that school" by inserting the words "or program";

On page 2, subsection 3.3, after the words "dental school dean" by inserting the words "or program director of a dental residency program";

On page 2, subsection 3.3, after the words "location of the dental school" by inserting the words "or program";

And,

On page 2, subsection 3.3, after the word "functions in the dental school" by inserting the words "or program".

(b) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §31B-13-1304 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Formation and Approval of Professional Limited Liability Companies, 5 CSR 02), is authorized.

(c) The Legislature directs the West Virginia Board of Dentistry to amend the legislative rule filed in the State Register on

May 1, 2014, authorized under the authority of §30-4-6 of this code, relating to the West Virginia Board of Dentistry (Fees Established by the Board, 5 CSR 03) with the amendments set forth below:

On page one, after subsection 1.4., by adding a new subsection 1.5. to read as follows:

"1.5. Sunset Provision. – This rule shall terminate and have no further force or effect on August 1, 2027.";

On page one, subsection 2.1 by striking out "$185.00", and inserting in lieu thereof "$167.00";

On page one, subsection 2.2 by striking out "$20.00", and inserting in lieu thereof "$18.00";

On page one, subsection 2.3 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page one, subsection 2.4 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page one, subsection 2.5 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page one, subsection 2.6 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page one, subsection 2.7 by striking out "$185.00", and inserting in lieu thereof "$167.00";

On page one, subsection 3.1 by striking out "$300.00", and inserting in lieu thereof "$270.00";

On page one, subsection 4.1 by striking out "$75.00", and inserting in lieu thereof "$68.00";

On page one, subsection 4.2 by striking out "$20.00", and inserting in lieu thereof "$18.00";

On page one, subsection 4.3 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page one, subsection 4.4 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page one, subsection 4.5 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page two, subsection 4.6 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 4.7 by striking out "$75.00", and inserting in lieu thereof "$68.00";

On page two, subsection 4.8 by striking out "$65.00", and inserting in lieu thereof "$59.00";

On page two, subsection 4.9 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 4.10 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 4.11 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 4.12 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page two, subsection 4.13 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 4.14 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 4.15 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 4.16 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 5.1 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 5.2 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 6.1 by striking out "$250.00", and inserting in lieu thereof "$225.00";

On page two, subsection 6.2 by striking out "$150.00", and inserting in lieu thereof "$135.00";

On page two, subsection 6.3 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page two, subsection 7.1 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 7.2 by striking out "$15.00", and inserting in lieu thereof "$14.00";

On page two, subsection 7.3 by striking out "$900.00", and inserting in lieu thereof "$810.00";

On page two, subsection 7.4 by striking out "$300.00", and inserting in lieu thereof "$270.00";

On page two, subsection 7.5 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page three, subsection 7.6 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page three, subsection 7.7 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page three, subsection 8.1 by striking out "$250.00", and inserting in lieu thereof "$225.00";

On page three, subsection 8.2 by striking out "$175.00", and inserting in lieu thereof "$158.00";

On page three, subsection 8.3 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page three, subsection 9.1 by striking out "$1,500.00", and inserting in lieu thereof "$1,350.00";

On page three, subsection 9.2 by striking out "$250.00", and inserting in lieu thereof "$225.00";

On page three, subsection 9.3 by striking out "$1,000.00", and inserting in lieu thereof "$900.00";

On page three, subsection 9.4 by striking out "$250.00", and inserting in lieu thereof "$225.00";

On page three, subsection 9.5 by striking out "$500.00", and inserting in lieu thereof "$450.00";

On page three, subsection 9.6 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page three, subsection 9.7 by striking out "$250.00", and inserting in lieu thereof "$225.00";

On page three, subsection 9.8 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page three, subsection 10.1 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page three, subsection 10.2 by striking out "$25.00", and inserting in lieu thereof "$23.00";

On page three, subsection 10.3 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page three, subsection 10.6 by striking out "$100.00", and inserting in lieu thereof "$90.00";

And,

On page three, subsection 10.7 by striking out "$200.00", and inserting in lieu thereof "$180.00".

(d) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Formation and Approval of Dental Corporation and Dental Practice Ownership, 5 CSR 06), is authorized.

(e) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 17, 2021, relating to the West Virginia Board of Dentistry (Continuing Education Requirements, 5 CSR 11), is authorized.

(f) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2021, relating to the West Virginia Board of Dentistry (Administration of Anesthesia by Dentists, 5 CSR 12), is authorized.

(g) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2021, relating to the West Virginia Board of Dentistry (Expanded Duties of Dental Hygienists and Dental Assistants, 5 CSR 13), is authorized.

(h) The legislative rule filed in the State Register on July 26, 2021, authorized under the authority of §30-4-6 of this code, modified by the West Virginia Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and

refiled in the State Register on December 13, 2021, relating to the West Virginia Board of Dentistry (Teledentistry, 5 CSR 16), is authorized.

§64-9-8. West Virginia Board of Licensed Dietitians.

The Legislature directs the West Virginia Board of Licensed Dietitians to amend the legislative rule filed in the State Register on March 26, 2020, authorized under the authority of §30-35-4 of this code, relating to the West Virginia Board of Licensed Dietitians (Licensure and Renewal Requirements, 31 CSR 01) with the amendments set forth below:

On page one, subsection 1.5 by striking out "March 26, 2030", and inserting in lieu thereof "August 1, 2030"

On page two, paragraph 4.1.2.1 by striking out "$75.00", and inserting in lieu thereof "$69.00";

On page two, paragraph 4.1.2.2 by striking out "$75.00", and inserting in lieu thereof "$69.00";

On page two, paragraph 4.1.2.3 by striking out "$50.00", and inserting in lieu thereof "$46.00";

And,

On page two, subsection 31.6.3 by striking out "$50.00", and inserting in lieu thereof "$46.00".

§64-9-9. West Virginia Board of Professional Engineers.

The Legislature directs the West Virginia Board of Professional Engineers to amend the legislative rule filed in the State Register on March 30, 2020, authorized under the authority of §30-13-9 of this code, relating to the West Virginia Board of Professional Engineers (Examination, Licensure and Practice of Professional Engineers, 7 CSR 01) with the amendments set forth below:

On page one, subsection 1.5., by striking "April 1, 2030" and inserting in lieu thereof "August 1, 2030";

On page eighteen, by striking all of subsection 13.4, and inserting in lieu thereof a new subsection 13.4 to read as follows:

"13.4. Fee Amounts. The fees for various services provided by Board are:

Engineering Intern	
Application Fee	$23.00
Examination Fee	As charged by NCEES
Professional Engineer	
Application Fee	$72.00
Examination Fee	As charged by NCEES
Re-examination Fee	As charged by NCEES
Certificate Fee	$23.00
Comity Application Fee	$135.00
Certificate of Authorization	
Application Fee for Sole Proprietor with no employees	$ 0.00
Application Fee for Firm with three or fewer Professional Engineers*	$90.00
Application Fee for Firm with four or more Engineers*	$135.00
Two-Year Renewal Fee	
Professional Engineer	$63.00
Professional Engineer-Retired	$27.00
COA for Sole Proprietor with no Employees	$ 0.00
COA for Firm with three Or fewer Professional Engineers*	$ 90.00

COA for Firm with four or more Professional Engineers*	$450.00
Late Fee	25% of fee

Reinstatement Applications

Professional Engineer	$167.00
COA for Sole Proprietor with No employees	0.00
COA for Firm with three or fewer engineers	$180.00
COA for Firm with four or more Professional Engineers*	$630.00
PE or COA Roster **	$ 23.00
Replacement Certificates	$ 23.00
Returned Checks	$ 23.00

*Regardless of the PE's state of registration or licensure

**Available for free download on the Board website"

§64-9-10. West Virginia Board of Funeral Service Examiners.

The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-6-6 of this code, modified by the West Virginia Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 23, 2021, relating to the West Virginia Board of Funeral Service Examiners (Fee Schedule , 6 CSR 07), is authorized.

§64-9-11. West Virginia Massage Therapy Licensure Board.

The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-37-6 of this code, modified by the West Virginia Massage Therapy Licensure Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 1, 2021, relating to the West Virginia Massage Therapy Licensure Board (General Provisions, 194 CSR 01), is authorized with the amendment set forth below:

On page 4, subdivision 4.1.h, after the words "written medical directive" by inserting the words "prescribed by a medical doctor, doctor of osteopathy, physician assistant, or an advanced practice registered nurse".

§64-9-12. West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners.

The Legislature directs the West Virginia Board of Medical Imaging and Radiation Therapy Technology Board of Examiners to amend the legislative rule filed in the State Register on March 30, 2020, authorized under the authority of §30-23-7 of this code, relating to the West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners (Medical Imaging Technologists, 18 CSR 01) with the amendments set forth below:

On page one, subsection 1.5., by striking "March 30, 2035" and inserting in lieu thereof "August 1, 2035";

On page 6, subdivision 4.7.a. by striking out "$100.00" and inserting in lieu thereof "$92.00";

On page 6, subdivision 4.7.b. by striking out "$65.00" and inserting in lieu thereof "$60.00";

On page 6, subdivision 4.7.c. by striking out "$40.00" and inserting in lieu thereof "$37.00";

On page 6, subdivision 4.7.f. by striking out "$40.00" and inserting in lieu thereof "$37.00";

On page 6, subdivision 4.7.j. by striking out "$100.00" and inserting in lieu thereof "$92.00";

On page 6, subdivision 4.7.k. by striking out "$100.00" and inserting in lieu thereof "$92.00";

On page 7, paragraph 4.8.a.1. by striking out "$1000.00" and inserting in lieu thereof "$920.00";

On page 7, paragraph 4.8.a.2. by striking out "$1000.00" and inserting in lieu thereof "$920.00";

On page 7, paragraph 4.8.a.3. by striking out "$500.00" and inserting in lieu thereof "$460.00";

And,

On page 7, paragraph 4.8.a.4. by striking out "$500.00" and inserting in lieu thereof "$460.00".

§64-9-13. West Virginia Board of Medicine.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, relating to the West Virginia Board of Medicine (Licensing and Disciplinary Procedures: Physicians, Podiatric Physicians and Surgeons, 11 CSR 01A), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3E-3 of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 2, 2021, relating to the West Virginia Board of Medicine (Licensure, Practice Requirements, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants, 11 CSR 01B), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and

refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Dispensing of Prescription Drugs by Practitioners, 11 CSR 05), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 of this code, relating to the West Virginia Board of Medicine (Continuing Education for Physicians and Podiatric Physicians, 11 CSR 06), is authorized.

(e) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §60A-9-5a of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Practitioner Requirements for Accessing the West Virginia Controlled Substances Monitoring Program Database, 11 CSR 10), is authorized.

(f) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 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 October 25, 2021, relating to the West Virginia Board of Medicine (Establishment and Regulation of Limited License to Practice Medicine and Surgery at Certain State Veterans Nursing Home Facilities, 11 CSR 11), is authorized.

(g) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3E-3 of this code, modified by the West Virginia Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 25, 2021, relating to the West Virginia Board of Medicine (Registration to Practice During Declared State of Emergency, 11 CSR 14), is authorized.

(h) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3-7 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 December 16, 2021, relating to the Board of Medicine (Telehealth and Interstate Telehealth Registration for Physicians, Podiatric Physicians and Physician Assistants, 11 CSR 15), is authorized with the amendment set forth below:

On page 7, subsection 7.4, after the words, "standard of care" by inserting the words, "with respect to an established patient".

§64-9-14. West Virginia Board of Osteopathic Medicine.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-14-14 of this code, modified by the West Virginia Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 24, 2021, relating to the West Virginia Board of Osteopathic Medicine (Licensing Procedures for Osteopathic Physicians, 24 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-3E-3 of this code, modified by the West Virginia Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2021, relating to the West Virginia Board of Osteopathic Medicine (Osteopathic Physician Assistants, 24 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §60A-9-5a of this code, modified by the West Virginia Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 24, 2021, relating to the West Virginia Board of Osteopathic Medicine (Practitioner Requirements for Controlled Substances Licensure and Accessing the West Virginia Controlled Substances Monitoring Program Database, 24 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-14-14 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 December 15, 2021, relating to the Board of Osteopathic Medicine (Telehealth Practice and Interstate Telehealth Registration for Osteopathic Physicians and Physician Assistants, 24 CSR 10), is authorized with the amendment set forth below:

On page 7, subsection 7.4, after the words, "standard of care" by inserting the words, "with respect to an established patient".

§64-9-15. West Virginia Board of Pharmacy.

(a) The legislative rule filed in the State Register on July 21, 2021, authorized under the authority of §30-5-7 of this code, modified by the West Virginia Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2021, relating to the West Virginia Board of Pharmacy (Licensure and Practice of Pharmacist Care, 15 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 21, 2021, authorized under the authority of §60A-9-6 of this code, modified by the West Virginia Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2021, relating to the West Virginia Board of Pharmacy (Controlled Substances Monitoring Program, 15 CSR 08), is authorized.

(c) The legislative rule filed in the State Register on July 21, 2021, authorized under the authority of §30-5-7 of this code, modified by the West Virginia Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2021, relating to the West Virginia Board of Pharmacy (Regulations Governing Pharmacists, 15 CSR 16), is authorized.

§64-9-16. West Virginia Board of Psychologists.

The Legislature directs the West Virginia Board of Psychologists to amend the legislative rule filed in the State Register on April 25, 2018, authorized under the authority of §30-

21-6 of this code, relating to the West Virginia Board of Psychologists (Fees, 17 CSR 01) with the amendments set forth below:

One page one, subsection 1.5. by striking out "July 1, 2028", and inserting in lieu thereof "August 1, 2028";

On page one, subsection 2.1 by striking out "$133.00", and inserting in lieu thereof "$120.00";

On page one, paragraph 2.2 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page one, subdivision 2.2.1 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page one, subdivision 2.3.1 by striking out "$450.00", and inserting in lieu thereof "$405.00";

On page one, subdivision 2.3.2 by striking out "$133.00", and inserting in lieu thereof "$120.00";

On page one, subdivision 2.2.3 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page two, subdivision 2.3.4 by striking out "$300.00", and inserting in lieu thereof "$270.00";

Strike the entirety of page two, subsection 2.5, and renumber the remaining subsections;

On page two, subsection 2.6 by striking out "$78.00", and inserting in lieu thereof "$68.00";

On page two, subdivision 2.7.1 by striking out "$450.00", and inserting in lieu thereof "$405.00";

On page two, subdivision 2.7.2 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page two, subsection 2.8 by striking out "$133.00", and inserting in lieu thereof "$120.00";

On page two, subsection 2.9 by striking out "$300.00", and inserting in lieu thereof "$270.00";

On page two, subsection 2.11 by striking out "$100.00", and inserting in lieu thereof "$90.00";

On page two, subdivision 2.12.1 by striking out "$200.00", and inserting in lieu thereof "$180.00";

On page two, subdivision 2.12.2 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 2.13 by striking out "$50.00", and inserting in lieu thereof "$45.00";

On page two, subsection 2.14 by striking out "$50.00", and inserting in lieu thereof "$45.00";

And,

On page two, subsection 2.15 by striking out "$200.00", and inserting in lieu thereof "$180.00".

§64-9-17. Public Service Commission.

The legislative rule filed in the State Register on August 6, 2021, authorized under the authority of §24-2E-3 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 August 24, 2021, relating to the Public Service Commission (Rules Governing the Occupancy of Customer-Provided Conduit, 150 CSR 37), is authorized.

§64-9-18. West Virginia Real Estate Appraiser Licensing and Certification Board.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-38-9 of this code, modified by the West Virginia Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2021, relating to the West Virginia Real Estate

Appraiser Licensing and Certification Board (Requirements for Licensure and Certification, 190 CSR 02), is authorized with the amendments set forth below:

On page twenty-five, subdivision 10.2.a., by striking out "one hundred fifty dollars ($150)", and inserting in lieu thereof "$120";

On page twenty-five, subdivision 10.2.b., by striking out "two hundred sixty-five dollars ($265)", and inserting in lieu thereof "$210";

On page twenty-five, subdivision 10.2.c., by striking out "one hundred dollars ($100)", and inserting in lieu thereof "$80";

On page twenty-five, subdivision 10.2.d., following the words "temporary permit fee of" by striking out "two hundred fifty dollars ($250)", and inserting in lieu thereof "$200";

On page twenty-five, subdivision 10.2.d., following the words "non-residential appraisal and," and inserting in lieu thereof "$200";

On page twenty-six, subdivision 10.2.e., by striking out "one hundred fifty dollars ($150)", and inserting in lieu thereof "$120";

On page twenty-six, subdivision 10.2.f., by striking out "four hundred sixty-five dollars ($465)", and inserting in lieu thereof "$375";

On page twenty-six, subdivision 10.2.g., by striking out "three hundred fifteen dollars ($315)", and inserting in lieu thereof "$250";

On page twenty-six, subdivision 10.2.h., by striking out "one hundred dollars ($100)", and inserting in lieu thereof "$80";

On page twenty-six, subdivision 10.2.j., by striking out "one hundred fifty dollars ($150)", and inserting in lieu thereof "$120";

On page twenty-six, subdivision 10.2.k., by striking out "one hundred fifty dollars ($150)", and inserting in lieu thereof "$120";

On page twenty-six, subdivision 10.2.l., by striking out "one hundred ninety dollars ($190)", and inserting in lieu thereof "$150";

On page twenty-six, subdivision 10.2.m., by striking out "twenty-five dollars ($25)", and inserting in lieu thereof "$20";

On page twenty-six, subdivision 10.2.n., by striking out "Copy fees: fifty cents ($.50) per page"

On page twenty-six, subdivision 10.2.n., following the words Administrative fee of," striking "fifty cents ($.50)," and inserting in lieu thereof "$.40"

On page twenty-six, subdivision 10.2.o., by striking out "one hundred fifty dollars ($150)", and inserting in lieu thereof "$120";

On page twenty-six, subdivision 10.2.p., by striking out "one hundred fifty dollars ($150)", and inserting in lieu thereof "$120";

On page twenty-six, subdivision 10.2.q., after the words "One roster-fee of" by striking out "thirty-five dollars ($35), and inserting in lieu thereof "$28";

On page twenty-six, subdivision 10.2.q., after the words roster subscription fee-of" by striking out "fifty dollars ($50)", and inserting in lieu thereof "$40";

On page twenty-six, subdivision 10.2.r., by striking out "fifty dollars ($50)", and inserting in lieu thereof "$40";

On page twenty-six, subdivision 10.2.s., by striking out "fifty dollars ($550)", and inserting in lieu thereof "$40";

On page twenty-six, subdivision 10.2.t., by striking out "seventy-five dollars ($75)", and inserting in lieu thereof "$60";

And,

On page twenty-six, subdivision 10.2.u., by striking out "twenty-five dollars ($25)", and inserting in lieu thereof "$20".

(b) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-38-9 of this code, modified by the West Virginia Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2021, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board (Renewal of Licensure or Certification, 190 CSR 03), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-38A-2 of this code, modified by the West Virginia Real Estate Appraiser Licensing and Certification Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2021, relating to the West Virginia Real Estate Appraiser Licensing and Certification Board (Requirements for Registration and Renewal of Appraisal Management Companies, 190 CSR 05), is authorized.

§64-9-19. West Virginia Board of Examiners for Registered Professional Nurses.

(a) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §30-7-15a of this code, relating to the West Virginia Board of Examiners for Registered Professional Nurses (Limited Prescriptive Authority for Nurses in Advanced Practice, 19 CSR 08), is authorized.

(b) The legislative rule filed in the State Register on August 31, 2021, authorized under the authority of §30-7-4 of this code, relating to the Board of Registered Professional Nurses (Telehealth Practice, 19 CSR 16), is authorized with the amendments set forth below:

On page three, subdivision 3.3.2., by striking out the word "state" and inserting in lieu thereof the words "State of West Virginia";

On page three, subdivision 3.3.2., by striking out the words "location or";

On page five, subsection 5.9., by striking out the word "applicant" and inserting in lieu thereof the word "registrant";

On page five, after subsection 5.12, by renumbering the remaining subsections;

On page six, subsection 5.11., by striking out the words "apply anew" and inserting in lieu thereof the word "reapply";

On page seven, subsection 7.3., after the words "prescription if" by inserting in lieu thereof the words "the nurse";

On page seven, subsection 7.4., after the words "standard of care" by inserting the words "with respect to an established patient";

On page eight, subsection 7.8., after the word "practices" by striking out the word "to" and inserting in lieu thereof the words "while treating";

On page eight, subsection 8.1, by striking out the words "of the provider's profession in the State of West Virginia pursuant to qualified advanced practice registered nurses to prescribe prescription drugs in accordance with the" and inserting in lieu thereof the words "as set forth in the";

On page eight, subsection 8.2, by striking out the words "Schedules III through V of";

On page eight, subsection 8.3, by striking out the words "based solely upon a telemedicine encounter";

On page nine, subdivision 10.2.1., by striking out the words "Shall not engage" and inserting in lieu thereof the word "Engaging";

On page nine, subdivision 10.2.1., by inserting a period after the words "this rule";

On page nine, subdivision 10.2.1., by striking out the words "or they" and inserting in lieu thereof the words "A registered nurse or

advance practice registered nurse who engages in professional misconduct";

And,

On page nine, subsection 11.2., by striking out the words "the following" and inserting in lieu thereof the word "that".

§64-9-20. Secretary of State.

(a) The legislative rule filed in the State Register on May 10, 2021, authorized under the authority of §3-2-11 of this code, 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 May 10, 2021, authorized under the authority of §3-2-23a of this code, relating to the Secretary of State (Voter Registration List Maintenance by the Secretary of State, 153 CSR 05), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §3-2-12 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 December 29, 2021, relating to the Secretary of State (Combined Voter Registration and Driver Licensing Fund, 153 CSR 25), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §39A-3-3 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 December 29, 2021, relating to the Secretary of State (Use of Digital Signatures, 153 CSR 30), is authorized.

(e) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §3-8-2c 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 December 29, 2021, relating to the Secretary of

State (Regulation of Political Party Headquarters Finances, 153 CSR 43), is authorized.

(f) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §39-4-37 and §39-4-38 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 December 29, 2021, relating to the Secretary of State (Standards and Guidelines for Electronic Notarization, Remote Online Notarization, and Remote Ink Notarization, 153 CSR 45), is authorized.

(g) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §39A-4-4 of this code, relating to the Secretary of State (Real Property Electronic Recording Standards and Regulations, 153 CSR 48), is authorized with amendments set forth below:

On page 2, section 3.1, by striking out the words "as amended from time to time";

On page 3, subdivision 3.3.1, by striking out the words "as amended from time to time";

And,

On page 3, subdivision 3.3.2, by striking out the words "as amended from time to time".

§64-9-21. West Virginia Board of Social Work Examiners.

(a) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-30-6 of this code, modified by the West Virginia Board of Social Work Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the West Virginia Board of Social Work Examiners (Qualifications for the Profession of Social Work, 25 CSR 01), is authorized.

(b) The Legislature directs the West Virginia Board of Social Work Examiners to amend the legislative rule filed in the State Register on May 12, 2020, authorized under the authority of §30-30-6 of this code, relating to the West Virginia Board of Social Work Examiners (Fee Schedule, 25 CSR 03) with the amendments set forth below:

On page two, subdivision 3.1.2., by striking out "fifty dollars ($50)", and inserting in lieu thereof "$45";

On page two, subdivision 3.2.1., by striking out "($100)", and inserting in lieu thereof "$90";

On page two, subdivision 3.2.2., following the words "biennial license renewal is" by striking out "eighty-five dollars ($85)", and inserting in lieu thereof "$76";

On page two, subdivision 3.2.2., following the words "provisional license renewal is" by striking "ninety dollars ($90)", and inserting in lieu thereof "$80";

On page two, subdivision 3.2.3., by striking out "fifty dollars ($50)", and inserting in lieu thereof "$45";

On page two, subdivision 3.2.4., by striking out "one hundred fifteen dollars ($115)", and inserting in lieu thereof "$104";

On page two, subdivision 3.2.5., by striking out "twenty-five dollars ($25)", and inserting in lieu thereof "$23";

On page two, subdivision 3.2.6., by striking out "fifty dollars ($50)", and inserting in lieu thereof "$45";

On page two, subdivision 3.2.7., by striking out "thirty dollars ($30)", and inserting in lieu thereof "$27";

On page two, subdivision 3.2.8., by striking out "one hundred dollars ($100)", and inserting in lieu thereof "$90";

On page two, subdivision 3.2.9., by striking out "fifty-five dollars ($55)", and inserting in lieu thereof "$50";

On page two, subdivision 3.2.10., by striking out "twenty-five dollars ($25)", and inserting in lieu thereof "$23";

On page three, subdivision 3.4.1., by striking out "one hundred dollars ($100)", and inserting in lieu thereof "$90";

On page three, subdivision 3.4.2., by striking out "sixty dollars ($60)", and inserting in lieu thereof "$54";

And,

On page three, subdivision 3.5.1., by striking out "one hundred dollars ($100)", and inserting in lieu thereof "$90".

(c) The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §30-30-6 of this code, modified by the West Virginia Board of Social Work Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 20, 2021, relating to the West Virginia Board of Social Work Examiners (Continuing Education for Social Workers and Providers, 25 CSR 05), is authorized.

§64-9-22. West Virginia Board of Examiners for Speech-Language Pathology and Audiology.

The legislative rule filed in the State Register on June 9, 2021, authorized under the authority of §30-32-7 of this code, modified by the West Virginia 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 December 16, 2021, relating to the West Virginia Board of Speech-Language Pathology and Audiology (Licensure of Speech-Pathology and Audiology, 29 CSR 01), is authorized.

§64-9-23. State Treasurer.

(a) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-4-11 of this code, relating to the Treasurer (Substitute Checks-Exceptional Items Fund, 112 CSR 02), is authorized.

(b) The legislative rule filed in the State Register on May 6, 2021, authorized under the authority of §12-2-2 of this code, relating to the Treasurer (Procedures for Deposit of Moneys with the State Treasurer's Office by State Agencies, 112 CSR 04), is authorized.

(c) The legislative rule filed in the State Register on May 6, 2021, authorized under the authority of §12-1-2 of this code, relating to the Treasurer (Selection of State Depositories for Disbursement Accounts Through Competitive Bidding, 112 CSR 06), is authorized.

(d) The legislative rule filed in the State Register on May 7, 2021, authorized under the authority of §12-1-2 of this code, relating to the Treasurer (Selection of State Depositories for Receipt Accounts, 112 CSR 07), is authorized.

(e) The legislative rule filed in the State Register on May 7, 2021, authorized under the authority of §12-3-1 of this code, relating to the Treasurer (Procedures for Processing Payments from the State Treasury, 112 CSR 08), is authorized.

(f) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-6A-7 of this code, relating to the Treasurer (Reporting Debt, 112 CSR 10), is authorized.

(g) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-3A-6 of this code, relating to the Treasurer (Procedure for Fees in Collections by Charge, Credit or Debit Card or by Electronic Payment, 112 CSR 12), is authorized.

(h) The legislative rule filed in the State Register on July 29, 2021, authorized under the authority of §12-3A-6 of this code, relating to the Treasurer (Procedures for Providing Services to Political Subdivisions, 112 CSR 13), is authorized."

On motion of Delegate Foster, the amendment was amended, on page 20, section 13, line 42, by striking out the entirety of the text on lines 42 and 43 and inserting in lieu thereof the following:

"On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

And,

On page nine, subsection 8.4, by striking out the words "based solely upon a telemedicine encounter"

And to amend the amendment on page 21, section 14, line 23 by striking out the entirety of the text on lines 23 and 24 and inserting in lieu thereof the following:

"On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4 Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;

And,

On page nine, subsection 8.4, by striking out the words "based solely upon a telemedicine encounter"

And to amend the amendment on page 27, section 19, lines18 and 19 by striking all the existing text and inserting in lieu thereof the following:

"On page seven, by striking out all of subsection 7.4 and inserting in lieu thereof a new subsection 7.4 to read as follows:

7.4. Nothing in this rule requires a practitioner to use telemedicine technologies to treat a patient if the practitioner, in his or her discretion, determines that an in-person encounter is required.;"

The question being on the adoption of the amendment, as amended, the same was put and adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 424, Relating generally to 2022 Farm Bill; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill at section 1 of Article 2C, on page 5, by deleting the second set of lines numbered 1 and 2;

And,

At section 1, on page 16, after the first use of line "7" by deleting Chapter 30, Article 43 in its entirety.

The bill was then ordered to third reading.

Com. Sub. for S. B. 434, Updating authority to airports for current operations; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 438, Relating generally to WV Security for Public Deposits Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page 3, section 4, line 12, following the word "of" by striking "chapter 12 of this code" and inserting in lieu thereof "this chapter';

On page 3, section 4, line 16, following the word "that" by striking "chose" and inserting in lieu thereof "choose";

On page 4, section 4, line 27, following the word "rules" by inserting "promulgated or proposed";

On page 4, section 4, line 34, following the word "enable" by striking "public depositors" and inserting "designated state depositories";

On page 5, section 7, line 8, following the word "on" by adding "the";

On page 5, section 7, line 21, following the word "method" by adding "or other approved method permitted in this code";

On page 6, following section 7, by striking "**§12-1B-8. Authority to secure public deposits; acceptance of liabilities and duties by public depositories.**" and inserting in lieu thereof "**§12-1B-8. Authority to secure public deposits; acceptance of liabilities and duties of designated state depositories.**"

On page 5, section 9, line 1, following "by" by striking "either the pooled method or the dedicated method"; and inserting in lieu thereof "the pooled method, the dedicated method or by any other method permitted in this code"; and

On page 7, section 10, line 1, following "any" by striking "public deposit" and inserting in lieu thereof "designated state depository".

The bill was then ordered to third reading.

Com. Sub. for S. B. 441, Providing confidentiality of video and other records of correctional juvenile facilities; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill by striking everything after the enacting clause and inserting in lieu thereof the following:

"**ARTICLE 4. CORRECTIONS MANAGEMENT.**

§15A-4-8a. Facility video and security records confidential; exceptions.

(a) The contents of any correctional or juvenile facility video, incident report, or investigation report related to the safe and secure management of inmates and residents may be disclosed or released to the commissioner's agents, representatives, and designees, but such records are otherwise confidential and not subject to public disclosure or release except as set forth in this section.

(b) Notwithstanding any provision of this code to the contrary, the contents of any correctional or juvenile facility video, incident report, or investigation report related to the safe and secure management of inmates and residents may be disclosed or released to an appropriate law-enforcement agency, when disclosure or release is necessary for the investigation, prevention, or prosecution of a crime or to safeguard the orderly operation of the correctional institution: *Provided*, That, with respect to records relating to juvenile residents, the law-enforcement agency in receipt of any such records shall treat the records as confidential pursuant to the provisions set forth in §49-5-101(a) of this code.

(c) Disclosure or release may also be made in civil or administrative proceedings pursuant to an order of a court or an administrative tribunal with the entry of an appropriate protective order prohibiting the misuse and reproduction of disclosed or released records: *Provided*, That the disclosure or release of records from a juvenile facility required for an employee grievance shall be made strictly in accordance with the provisions of §49-5-101 of this code.

(d) The commissioner may authorize an attorney, licensed before the bar of this State and who is representing a person with a potential claim for personal injury or a violation of the United States Constitution or West Virginia Constitution allegedly caused by the division, to view facility video, incident reports, or investigation reports related to the safe and secure management of inmates and residents for purposes of determining the validity of a claim against the division, but such video, incident reports, or investigation reports related to the safe and secure management of inmates and residents shall not be released to the licensed attorney prior to institution of a suit or petition for pre-suit discovery in the

appropriate forum and after the entry of an appropriate protective order prohibiting the misuse and reproduction of disclosed records.

(e) The confidentiality provisions of this section shall extend to any person receiving such records and may not be used for any unauthorized purpose except upon order of a court of record.

The bill was then ordered to third reading.

S. B. 442, Relating to WV Public Employee Retirement System; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page 1, following the enacting clause, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

"**ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.**

§5-10-14. Service credit; retroactive provisions.

(a) The board of trustees shall credit each member with the prior service and contributing service to which he or she is entitled based upon rules adopted by the board of trustees and based upon the following:

(1) In no event may less than 10 days of service rendered by a member in any calendar month be credited as a month of service: *Provided*, That for employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim between regular sessions and who have been or are employed during regular sessions or during the interim between regular sessions in seven consecutive calendar years, service credit of one month shall be awarded for each 10 days employed in the interim between regular sessions, which interim days shall be cumulatively calculated so that any 10 days, regardless of calendar month or year, shall be calculated toward any award of one month of service credit;

(2) Except for hourly employees, and those persons who first become members of the retirement system on or after July 1, 2015, 10 or more months of service credit earned in any calendar year shall be credited as a year of service: *Provided*, That no more than one year of service may be credited to any member for all service rendered by him or her in any calendar year and no days may be carried over by a member from one calendar year to another calendar year where the member has received a full-year credit for that year; and

(3) Service may be credited to a member who was employed by a political subdivision if his or her employment occurred within a period of 30 years immediately preceding the date the political subdivision became a participating public employer.

(b) The board of trustees shall grant service credit to ~~employees of boards of health, the Clerk of the House of Delegates and the Clerk of the State Senate or to~~ any former and present member of the State Teachers Retirement System who have been contributing members in the Public Employees Retirement System for more than three years, for service previously credited by the State Teachers Retirement System and shall require the transfer of the member's accumulated contributions to the system and shall also require a deposit, with reinstatement interest as set forth in the board's Rule, Refund, Reinstatement, Retroactive Service, Loan and Correction of Error Interest Factors, 162 C. S. R. 7, of any withdrawals of contributions any time prior to the member's retirement: *Provided*, That members of the State Teachers Retirement System who first became a member of the State Teachers Retirement System on or after July 1, 2022, may only transfer service credit to the Public Employees Retirement System if they first became a member of the Public Employees Retirement System on or after July 1, 2015. Repayment of withdrawals shall be as directed by the Board of Trustees.

(c) Court reporters who are acting in an official capacity, although paid by funds other than the county commission or State Auditor, may receive prior service credit for time served in that capacity.

(d) Active members who previously worked in Comprehensive Employment and Training Act (CETA) may receive service credit for time served in that capacity: *Provided*, That in order to receive service credit under the provisions of this subsection the following conditions must be met: (1) The member must have moved from temporary employment with the participating employer to permanent full-time employment with the participating employer within 120 days following the termination of the member's CETA employment; (2) the board must receive evidence that establishes to a reasonable degree of certainty as determined by the board that the member previously worked in CETA; and (3) the member shall pay to the board an amount equal to the employer and employee contribution plus interest at the amount set by the board for the amount of service credit sought pursuant to this subsection: *Provided, however*, That the maximum service credit that may be obtained under the provisions of this subsection is two years: *Provided further*, That a member must apply and pay for the service credit allowed under this subsection and provide all necessary documentation by March 31, 2003: *And provided further*, That the board shall exercise due diligence to notify affected employees of the provisions of this subsection.

(e) (1) Employees of the State Legislature whose terms of employment are otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim time between regular sessions shall receive service credit for the time served in that capacity in accordance with the following: For purposes of this section, the term "regular session" means day one through day 60 of a 60-day legislative session or day one through day 30 of a 30-day legislative session. Employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions or during the interim time between regular sessions and who have been or are employed during regular sessions or during the interim time between regular sessions in seven consecutive calendar years, as certified by the clerk of the house in which the employee served, shall receive service credit of six months for all regular sessions served, as certified by the clerk

of the house in which the employee served, or shall receive service credit of three months for each regular 30-day session served prior to 1971: *Provided*, That employees of the State Legislature whose term of employment is otherwise classified as temporary and who are employed to perform services required by the Legislature for its regular sessions and who have been or are employed during the regular sessions in 13 consecutive calendar years as either temporary employees or full-time employees or a combination thereof, as certified by the clerk of the house in which the employee served, shall receive a service credit of 12 months for each regular session served, as certified by the clerk of the house in which the employee served: *Provided, however,* That the amendments made to this subsection during the 2002 regular session of the Legislature only apply to employees of the Legislature who are employed by the Legislature as either temporary employees or full-time employees as of January 1, 2002, or who become employed by the Legislature as temporary or full-time employees for the first time after January 1, 2002. Employees of the State Legislature whose terms of employment are otherwise classified as temporary and who are employed to perform services required by the Legislature during the interim time between regular sessions shall receive service credit of one month for each 10 days served during the interim between regular sessions, which interim days shall be cumulatively calculated so that any 10 days, regardless of calendar month or year, shall be calculated toward any award of one month of service credit: *Provided further*, That no more than one year of service may be credited to any temporary legislative employee for all service rendered by that employee in any calendar year and no days may be carried over by a temporary legislative employee from one calendar year to another calendar year where the member has received a full year credit for that year. Service credit awarded for legislative employment pursuant to this section shall be used for the purpose of calculating that member's retirement annuity, pursuant to §5-10-22 of this code, and determining eligibility as it relates to credited service, notwithstanding any other provision of this section. Certification of employment for a complete legislative session and for interim days shall be determined by the clerk of the house in which the employee served, based upon employment records. Service of 55 days of a regular session constitutes an

absolute presumption of service for a complete legislative session and service of 27 days of a 30-day regular session occurring prior to 1971 constitutes an absolute presumption of service for a complete legislative session. Once a legislative employee has been employed during regular sessions for seven consecutive years or has become a full-time employee of the Legislature, that employee shall receive the service credit provided in this section for all regular and interim sessions and interim days worked by that employee, as certified by the clerk of the house in which the employee served, regardless of when the session or interim legislative employment occurred: *And provided further*, That regular session legislative employment for seven consecutive years may be served in either or both houses of the Legislature.

(2) For purposes of this section, employees of the Joint Committee on Government and Finance are entitled to the same benefits as employees of the House of Delegates or the Senate: *Provided,* That for joint committee employees whose terms of employment are otherwise classified as temporary, employment in preparation for regular sessions, certified by the legislative manager as required by the Legislature for its regular sessions, shall be considered the same as employment during regular sessions to meet service credit requirements for sessions served.

(f) Any employee may purchase retroactive service credit for periods of employment in which contributions were not deducted from the employee's pay. In the purchase of service credit for employment prior to 1989 in any department, including the Legislature, which operated from the General Revenue Fund and which was not expressly excluded from budget appropriations in which blanket appropriations were made for the state's share of public employees' retirement coverage in the years prior to 1989, the employee shall pay the employee's share. Other employees shall pay the state's share and the employee's share to purchase retroactive service credit. Where an employee purchases service credit for employment which occurred after 1988, that employee shall pay for the employee's share and the employer shall pay its share for the purchase of retroactive service credit: *Provided,* That no legislative employee and no current or former member of the

Legislature may be required to pay any interest or penalty upon the purchase of retroactive service credit in accordance with the provisions of this section where the employee was not eligible to become a member during the years for which he or she is purchasing retroactive credit or had the employee attempted to contribute to the system during the years for which he or she is purchasing retroactive service credit and the contributions would have been refused by the board: *Provided, however,* That a current legislative employee purchasing retroactive credit under this section shall do so within 24 months of beginning contributions to the retirement system as a legislative employee or no later than December 31, 2016, whichever occurs later: *Provided further,* That once a legislative employee becomes a member of the retirement system, he or she may purchase retroactive service credit for any time he or she was employed by the Legislature and did not receive service credit. Any service credit purchased shall be credited as six months for each 60-day session worked, three months for each 30-day session worked or 12 months for each 60-day session for legislative employees who have been employed during regular sessions in 13 consecutive calendar years, as certified by the clerk of the house in which the employee served, and credit for interim employment as provided in this subsection: *And provided further,* That this legislative service credit shall also be used for months of service in order to meet the 60-month requirement for the payments of a temporary legislative employee member's retirement annuity: *And provided further,* That no legislative employee may be required to pay for any service credit beyond the actual time he or she worked regardless of the service credit which is credited to him or her pursuant to this section: *And provided further,* That any legislative employee may request a recalculation of his or her credited service to comply with the provisions of this section at any time.

(g) (1) Notwithstanding any provision to the contrary, the seven consecutive calendar years requirement and the 13 consecutive calendar years requirement and the service credit requirements set forth in this section shall be applied retroactively to all periods of legislative employment prior to the passage of this section, including any periods of legislative employment occurring

before the seven consecutive and 13 consecutive calendar years referenced in this section: *Provided,* That the employee has not retired prior to the effective date of the amendments made to this section in the 2002 regular session of the Legislature.

(2) The requirement of seven consecutive years and the requirement of 13 consecutive years apply retroactively to all legislative employment prior to the effective date of the 2006 amendments to this section.

(h) The board of trustees shall grant service credit to any former or present member of the State Police Death, Disability and Retirement Fund who has been a contributing member of this system for more than three years for service previously credited by the State Police Death, Disability and Retirement Fund if the member transfers all of his or her contributions to the State Police Death, Disability and Retirement Fund to the system created in this article, including repayment of any amounts withdrawn any time from the State Police Death, Disability and Retirement Fund by the member seeking the transfer allowed in this subsection: *Provided,* That there shall be added by the member to the amounts transferred or repaid under this subsection an amount which shall be sufficient to equal the contributions he or she would have made had the member been under the Public Employees Retirement System during the period of his or her membership in the State Police Death, Disability and Retirement Fund, excluding contributions on lump sum payment for annual leave, plus interest at a rate determined by the board.

(i) The provisions of §5-10-22h of this code are not applicable to the amendments made to this section during the 2006 regular session.

§5-10-30. Refund of accumulated contributions.

(a) In the event a member leaves the employ of a participating public employer prior to the date ~~he~~ the member becomes entitled to retire with an annuity payable by the retirement system, ~~he~~ the member shall be paid, upon ~~his~~ the member's written application filed with the board of trustees, ~~his~~ the member's accumulated

contributions ~~standing to his credit in the members deposit fund~~, if ~~his~~ the member's separation from the employ of a participating public employer occurs subsequent to a period of two years ~~from and after the date he last became a member of the system~~ of contributing service. If ~~his~~ the member's said separation from the employ of a participating public employer occurs ~~within a period of~~ prior to two years ~~from and after the date he last became a member of the system~~ of contributing service, ~~he~~ the member shall be paid ~~his~~ the member's accumulated contributions ~~standing to his credit in the members deposit fund~~ less the total regular interest credited to ~~his~~ the member's individual account ~~therein; and the said total interest credit shall be transferred to the income fund~~.

(b) In the event a member dies and does not leave a beneficiary entitled to an annuity payable by the retirement system, ~~his~~ the member's accumulated contributions ~~standing to his credit in the members deposit fund~~ at the time of ~~his~~ the member's death shall be paid to such person or persons as he or she shall have nominated by written designation duly executed and filed with the board of trustees. If there be no such designated person or persons surviving the said member, ~~his~~ the member's said accumulated contributions shall be paid to ~~his~~ the member's estate.

~~(c) Refunds of a member's contributions or accumulated contributions, as the case may be, may be made in equal installments according to such rules and regulations as the board of trustees may from time to time adopt.~~

~~(d)~~(c) In the event a member dies and a refund of ~~his~~ the member's contributions is due to be made to an infant child or children by reason of being the person or persons nominated by written designation duly executed and filed with the retirement system, and the amount of said refund is less than $1,000, then, and in said event, the board of trustees may make said refund, upon written application, to the closest relative or natural guardian for the use of said infant child or children. The board of trustees may, at its discretion, require that said relative or natural guardian post bond with the retirement system to insure that said money will be used for the benefit of said infant child or children. In any event, before said refund is made to said relative or natural guardian of

the said infant or infants, said relative or natural guardian shall give the retirement system an indemnifying release of said sums so paid over.

(d) In the event a member leaves the employ of a participating public employer and is entitled to retire with an annuity payable by the retirement system, but will be subject to an annuity reduction at any time due to the 105 percent provision contained in §5-10-17(b) of this code, the member may be paid, upon the member's written application filed with the board of trustees, their accumulated contributions."

The bill was then ordered to third reading.

Com. Sub. for S. B. 463, Best Interests of Child Protection Act of 2022; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page 1, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

"**ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-MAKING RESPONSIBILITY OF CHILDREN.**

§48-9-102. Objectives; best interests of the child.

(a) The primary objective of this article is to serve the child's best interests, by facilitating:

(1) Stability of the child;

(2) Collaborative ~~Parental~~ parental planning and agreement about the child's custodial arrangements and upbringing;

(3) Continuity of existing parent-child attachments;

(4) Meaningful contact between a child and each parent, and which is rebuttably presumed to be equal (50-50) custodial allocation of the child;

(5) Caretaking and parenting relationships by adults who love the child, know how to provide for the child's needs, and who place a high priority on doing so;

(6) Security from exposure to physical or emotional harm;

(7) Expeditious, predictable decision-making and avoidance of prolonged uncertainty respecting arrangements for the child's care and control; and

(8) Meaningful contact between a child and his or her siblings, including half-siblings.

(b) A secondary objective of this article is to achieve fairness between the parents consistent with the rebuttable presumption of equal (50-50) custodial allocation.

§48-9~~1~~-102a Presumption in favor of equal (50-50) custodial allocation.

There shall be a presumption, rebuttable by a preponderance of the evidence, that equal (50-50) custodial allocation is in the best interest of the child. If the presumption is rebutted, the court shall, absent an agreement between the parents as to all matters related to custodial allocation, construct a parenting time schedule which maximizes the time each parent has with the child and is consistent with ensuring the child's welfare.

§48-9-203. Proposed temporary parenting plan; temporary order; amendment.~~ vacation of order.~~

(a) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be verified and shall state at a minimum the following:

(1) The name, address, and length of residence with the person or persons with whom the child has lived for the preceding ~~twelve~~ 12 months;

(2) The performance by each parent during the last 12 months of the parenting functions relating to the daily needs of the child;

~~(3) The parents' work and child-care schedules for the preceding twelve 12 months;~~

~~(4)~~(3) The parents' current work and child-care schedules; and

~~(5)~~(4) Any of the ~~circumstances~~ criteria set forth in §48-9-209 of this code that are likely to pose a serious risk to the child ~~and that~~ or that otherwise warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(b) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(1) A schedule for the child's time with each parent when appropriate;

(2) Designation of a temporary residence or residences for the child;

(3) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with §48-9-207 of this code, neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(4) Provisions for temporary support for the child; and

(5) Restraining orders, if applicable. ~~And~~

~~(6) Specific findings of fact upon which the court bases its determinations.~~

~~(c) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.~~

(c) If the parents have not agreed upon the allocation of physical custody of the child, then the allocation shall be made by the court upon the sworn testimony of the parents and their witnesses presented at the hearing.

(d) Upon request of either parent for an equal (50-50) allocation of physical custody, the presumption provided in §48-1-102a of this code applies.

(e) If the temporary allocation of physical custody is not on an equal (50-50) basis, it must contain specific findings of fact by the court, based upon the sworn testimony presented at the hearing, as to the reasons under §48-9-209 of this code that the court ordered the custodial allocation, along with the court's legal conclusions supporting its decision.

(f) A parent who has sought and been denied equal (50-50) physical custody, or who has been denied any physical custody, may file an interlocutory appeal with the West Virginia Intermediate Court of Appeals as to the temporary custodial allocation of the child or children, and the Intermediate Court of Appeals shall provide an expedited review of the order: *Provided*, That no stay shall be granted pending resolution of the appeal, and the filing of an interlocutory appeal shall not be the basis of a continuance of any subsequent or final hearing.

~~(d)~~ (g) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of and considerations required by §48-9-209 of this code and is in the best interest of the child. The court's order modifying the plan shall be in writing and contain specific findings of fact upon which the court bases its determinations.

§48-9-204. Criteria for temporary parenting plan.

(a) After considering the proposed temporary parenting plan filed pursuant to §48-9-203 of this code and other relevant evidence presented, the court shall make a temporary parenting plan that is

in the best interest of the child, which shall be in writing and contain specific findings of fact upon which the court bases its determinations. In making this determination, the court shall give particular consideration to which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.~~In making this determination, the court shall give particular consideration to:~~

~~(1) Which parent has taken greater responsibility during the last 12 months for performing caretaking and/or parenting functions relating to the daily needs of the child; and~~

~~(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.~~

(b) The court shall also consider the factors used to determine residential provisions in the permanent parenting plan.

(c) Upon credible evidence of one or more of the circumstances set forth in §48-9-209(a) of this code, the court shall issue a temporary order limiting or denying access to the child as required by that section, in order to protect the child or the other party, pending adjudication of the underlying facts. The temporary order shall be in writing and include specific findings of fact supporting the court's determination.

(d) Expedited procedures shall be instituted to facilitate the prompt issuance of a parenting plan.

(e) In establishing a temporary parenting plan, there shall be a presumption in favor of equal (50-50) physical custody which is rebuttable by a preponderance of the evidence, to be evaluated and considered in accordance with the criteria set forth in §48-9-209 of this code.

§48-9-205. Permanent parenting plan.

(a) A party seeking a judicial allocation of custodial responsibility or decision-making responsibility under this article shall file a proposed parenting plan with the court. Parties may file

a joint plan. A proposed plan shall be verified and shall state, to the extent known or reasonably discoverable by the filing party or parties:

(1) The name, address, and length of residence of any adults with whom the child has lived for one year or more, or in the case of a child less than one year of age, any adults with whom the child has lived since the child's birth;

(2) The name and address of each of the child's parents and any other individuals with standing to participate in the action under §48-9-103 of this code;

(3) A description of the allocation of caretaking and other parenting responsibilities performed by each person named in §48-9-205(a)(1) and §48-9-205(a)(2) of this code;

(4) A description of the work and child-care schedules of any person seeking an allocation of custodial responsibility and any expected changes to these schedules in the near future;

(5) A description of the child's school and extracurricular activities;

(6) A description of any of the ~~limiting factors as~~ criteria described in §48-9-209 of this code that are present, including any restraining orders against either parent to prevent domestic or family violence, by case number and jurisdiction;

(7) Required financial information; and

(8) A description of the known areas of agreement and disagreement with any other parenting plan submitted in the case.

The court shall maintain the confidentiality of any information required to be filed under this section when the person giving that information has a reasonable fear of domestic abuse, and disclosure of the information would increase that fear.

(b) The court shall develop a process to identify cases in which there is credible information that child abuse or neglect as defined

in §49-1-201 of this code or domestic violence as defined in §48-27-202 of this code has occurred. The process shall include assistance for possible victims of domestic abuse in complying with §48-9-205(a)(6) of this code and referral to appropriate resources for safe shelter, counseling, safety planning, information regarding the potential impact of domestic abuse on children, and information regarding civil and criminal remedies for domestic abuse. The process shall also include a system for ensuring that jointly submitted parenting plans that are filed in cases in which there is credible information that child abuse or domestic abuse has occurred receive the court review that is mandated by §48-9-202(b) of this code.

(c) Upon motion of a party and after consideration of the evidence, the court shall order a parenting plan consistent with the provisions of §48-9-206 through §48-9-209 of this code, containing:

(1) A provision for the child's living arrangements and each parent's custodial responsibility, which shall include either:

(A) A custodial schedule that designates in which parent's home each minor child will reside on given days of the year; or

(B) A formula or method for determining a schedule in sufficient detail that, if necessary, the schedule can be enforced in subsequent proceedings by the court;

(2) An allocation of decision-making responsibility as to significant matters reasonably likely to arise with respect to the child;

(3) A provision consistent with §48-9-202 of this code for resolution of disputes that arise under the plan and remedies for violations of the plan; ~~and~~

(4) Provisions for the financial support of the child or children; and

~~(4)~~ (5) A plan for the custody of the child ~~should~~ if one or both of the parents as a member of the National Guard, a reserve

component, or an active duty component ~~be~~ are mobilized, deployed, or called to active duty.

(d) A parenting plan may, at the court's discretion, contain provisions that address matters that are expected to arise in the event of a party's relocation, or provide for future modifications in the parenting plan if specified contingencies occur.

§48-9-206. Allocation of custodial responsibility at final hearing.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code or unless harmful to the child, the court shall allocate custodial responsibility so that, except to the extent required under §48-9-209 of this code, the custodial time the child spends with each parent ~~may be expected to achieve any of the following objectives:~~ shall be equal ("50-50").

~~(1) To permit the child to have a meaningful relationship with each parent who has performed a reasonable share of parenting functions;~~

~~(2) To accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;~~

~~(3) To keep siblings together when the court finds that doing so is necessary to their welfare;~~

~~(4) To protect the child's welfare when, under an otherwise appropriate allocation, the child would be harmed because of a gross disparity in the quality of the emotional attachments between each parent and the child, or in each parent's demonstrated ability or availability to meet a child's needs;~~

~~(5) To take into account any prior agreement of the parents that, under the circumstances as a whole, including the reasonable~~

~~expectations of the parents in the interest of the child, would be appropriate to consider;~~

~~(6) To avoid an allocation of custodial responsibility that would be extremely impractical or that would interfere substantially with the child's need for stability in light of economic, physical, or other circumstances, including the distance between the parents' residences, the cost and difficulty of transporting the child, the parents' and child's daily schedules, and the ability of the parents to cooperate in the arrangement;~~

~~(7) To~~ (b) The court shall apply the principles set forth in §48-9-403~~(d)~~ of this code if one parent relocates or proposes to relocate at a distance that will impair the ability of a parent to exercise the amount of custodial responsibility that would otherwise be ordered under this section.

~~(8) To consider the stage of a child's development;~~

~~(9) To consider which parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities;~~

~~(10) To take into account the preference that time allocated to the parent resulting in the child being under the care and custody of that parent is preferred to time allocated to the parent resulting in the child being under the care or custody of a family member of that parent or a third party; and~~

~~(11) To allow reasonable access to the child by telephone or other electronic contact, which shall be defined in the parenting plan;~~

(c) The court may consider the allocation of custodial responsibility arising from temporary agreements made by the parties after separation if the court finds, by a preponderance of the evidence, that such agreements were consensual. The court shall afford those temporary consensual agreements the weight the court believes the agreements are entitled to receive, based upon the evidence. The court may not consider the temporary allocation of

custodial responsibility imposed by a court order on the parties unless both parties agreed to the allocation provided for in the temporary order.

~~(c) If the court is unable to allocate custodial responsibility under §48-9-206(a) of this code because the allocation under §48-9-206(a) of this code would be harmful to the child, or because there is no history of past performance of caretaking functions, as in the case of a newborn, or because the history does not establish a pattern of caretaking sufficiently dispositive of the issues of the case, the court shall allocate custodial responsibility based on the child's best interest, taking into account the factors in considerations that are set forth in this section and in §48-9-209 and §48-9-403(d) of this code. and preserving to the extent possible this section's priority on the share of past caretaking functions each parent performed: *Provided*, That if either parent or both has demonstrated reasonable participation in parenting functions as defined in §48-1-235.2 of this code, the court cannot rely solely on caretaking functions, and shall consider the parents' participation in parenting functions.~~

~~(d) In determining how to schedule the custodial time allocated to each parent, the court shall take account of the economic, physical, and other practical circumstances such as those listed in §48-9-206(a)(6) of this code.~~

~~(e)~~ (d) In the absence of an agreement of the parents, the court's determination of allocation of custodial responsibility under this section shall be made pursuant to a final hearing, which shall ~~not~~ be conducted ~~exclusively~~ by the presentation of evidence. ~~by proffer.~~ The court's order determining allocation of custodial responsibility shall be in writing, and include specific findings of fact and conclusions of law supporting the determination.

§48-9-207. Allocation of significant decision-making responsibility at temporary or final hearing.

(a) Unless otherwise resolved by agreement of the parents under §48-9-201 of this code, the court shall allocate responsibility for making significant life decisions on behalf of the child,

including the child's education and health care, to one parent or to ~~two~~ both parents jointly, in accordance with the child's best interest, in light of the ability or inability of the parents, based upon the evidence before the court, to work collaboratively and in cooperation with each other in decision-making on behalf of the child, and the existence of any criteria ~~considerations~~ as set forth in §48-9-209 of this code.

~~(1) The allocation of custodial responsibility under §48-9-206 of this code;~~

~~(2)~~ (1) The level of each parent's participation in past decision making on behalf of the child;

~~(3)~~ (2) The wishes of the parents; and

~~(4)~~ (3) The level of ability and cooperation the parents have demonstrated in decision-making on behalf of the child.

~~(5) Prior agreements of the parties; and~~

~~(6) The existence of any limiting factors, as set forth in section 9-209 of this article.~~

(b) If each of the child's ~~legal~~ parents has been exercising a reasonable share of the parenting functions for the child, there shall be a rebuttable presumption ~~the court shall presume~~ that an allocation of decision-making responsibility to both parents jointly is in the child's best interests. The presumption may be rebutted ~~is overcome if there is a history of domestic abuse, neglect, or abandonment, or~~ by a showing that joint allocation of decision-making responsibility is not in the child's best interest upon proof by a preponderance of the evidence of relevant factors under §48-9-209 of this code. ~~*Provided*, That the~~ The court's determination shall be in writing and include specific findings of fact supporting any determination that joint allocation of decision-making responsibility is not in the child's best interest.

(c) Unless otherwise ~~provided or~~ agreed to by the parents or ordered by the court, each parent who is exercising custodial responsibility shall be given sole responsibility for day-to-day

decisions for the child, while the child is in that parent's care and control, including emergency decisions affecting the health and safety of the child.

§48-9-208. ~~Criteria for parenting plan;~~ Parental dispute resolution.

(a) If provisions for resolving parental disputes are not ordered by the court pursuant to a parenting agreement ~~under section 9-201,~~ in §48-9-201 of this code, the court shall order a method of resolving disputes that serves the child's best interest in light of:

(1) The parents' wishes and the stability of the child;

(2) Circumstances, including, but not limited to, financial circumstances, that may affect the parents' ability to participate in a prescribed dispute resolution process; and

(3) The existence of any ~~limiting~~ factor ~~as~~ set forth in ~~section 209 of this article.~~ §48-9-209 of this code.

(b) The court may order a non-judicial process of dispute resolution by designating with particularity the person or agency to conduct the process or the method for selecting ~~such~~ a person or agency. The disposition of a dispute through a non-judicial method of dispute resolution that has been ordered by the court without prior parental agreement is subject to de novo judicial review. If the parents have agreed in a parenting plan or by agreement thereafter to a binding resolution of their dispute by non-judicial means, a decision by such means is binding upon the parents and must be enforced by the court, unless it is shown to be contrary to the best interests of the child, beyond the scope of the parents' agreement, or the result of fraud, misconduct, corruption, or other serious irregularity.

(c) This section is subject to the limitations imposed by ~~section two hundred two of this article.~~ §48-9-202 of this code.

§48-9-209. Parenting plan; ~~limiting factors.~~ considerations.

(a) ~~If either of the parents so requests, or upon receipt of credible information thereof, the court shall determine whether a~~

~~parent who would otherwise be allocated responsibility under a parenting plan:~~ When entering an order approving or implementing a temporary or permanent parenting plan order, including custodial allocation, the court shall consider whether a parent:

(1) Has abused, neglected, or abandoned a child, as defined by state law;

(2) Has sexually assaulted or sexually abused a child as those terms are defined in §61-8B-1 *et seq.* and §61-8D-1 *et seq.* of this code;

(3) Has committed domestic violence, as defined in §48-27-202 of this code;

(4) Has overtly or covertly, persistently violated, interfered with, impaired, or impeded the rights of a parent or a child with respect to the exercise of shared authority, residence, visitation, or other contact with the child, except in the case of actions taken for the purpose of protecting the safety of the child or the interfering parent or another family member, pending adjudication of the facts underlying that belief; or

(5) Has made one or more fraudulent reports of domestic violence or child abuse: *Provided*, That a person's withdrawal of or failure to pursue a report of domestic violence or child support shall not alone be sufficient to consider that report fraudulent.

(b) If a parent is found to have engaged in any activity specified by subsection (a) of this section, the court shall impose limits that are reasonably calculated to protect the child or child's parent from harm. The limitations that the court shall consider include, but are not limited to:

(1) An adjustment of the custodial responsibility of the parents, including but not limited to:

(A) Increased parenting time with the child to make up for any parenting time the other parent lost as a result of the proscribed activity;

(B) An additional allocation of parenting time in order to repair any adverse effect upon the relationship between the child and the other parent resulting from the proscribed activity; or

(C) The allocation of exclusive custodial responsibility to one of ~~them~~ the parents;

(2) Supervision of the custodial time between a parent and the child;

(3) Exchange of the child between parents through an intermediary, or in a protected setting;

(4) Restraints on the parent from communication with, or proximity to, the other parent or the child;

(5) A requirement that the parent abstain from possession or consumption of alcohol or nonprescribed drugs while exercising custodial responsibility and in the ~~twenty-four~~ 24-hour period immediately preceding such exercise;

(6) Denial of overnight custodial responsibility;

(7) Restrictions on the presence of specific persons while the parent is with the child;

(8) A requirement that the parent post a bond to secure return of the child following a period in which the parent is exercising custodial responsibility or to secure other performance required by the court;

(9) A requirement that the parent complete a program of intervention for perpetrators of domestic violence, for drug or alcohol abuse, or a program designed to correct another factor; or

(10) Any other constraints or conditions that the court ~~deems~~ determines to be necessary to provide for the safety of the child, a child's parent, or any person whose safety immediately affects the child's welfare.

(c) If a parent is found to have engaged in any activity specified in subsection (a) of this section, the court may not allocate custodial

responsibility or decision-making responsibility to that parent without making special written findings that the child and other parent can be adequately protected from harm by such limits as it may impose under subsection (b) of this section. The parent found to have engaged in the behavior specified in subsection (a) of this section has the burden of proving that an allocation of custodial responsibility or decision-making responsibility to that parent will not endanger the child or the other parent.

(d) If the court determines, based on the investigation described in part ~~three~~ III of this article or other evidence presented to it, that an accusation of child abuse or neglect, or domestic violence made during a child custody proceeding is false and the parent making the accusation knew it to be false at the time the accusation was made, the court may order reimbursement to be paid by the person making the accusations of costs resulting from defending against the accusations. ~~Such~~ The reimbursement may not exceed the actual reasonable costs incurred by the accused party as a result of defending against the accusation and reasonable attorney's fees incurred.

(e) (1) A parent who believes he or she is the subject of activities by the other parent described in subdivision (5), ~~of~~ subsection (a) of this section, may move the court pursuant to ~~subdivision (4), subsection (b), section one hundred and one, article five, chapter forty nine~~ §49-5-101(b)(4) of this code for the Department of Health and Human Resources to disclose whether the other parent was the source of the allegation and, if so, whether the department found the report to be:

(A) Substantiated;

(B) Unsubstantiated;

(C) Inconclusive; or

(D) Still under investigation.

(2) If the court grants a motion pursuant to this subsection, disclosure by the Department of Health and Human Resources shall be in camera. The court may disclose to the parties

information received from the department only if it has reason to believe a parent knowingly made a false report.

(f) In determining whether the presumption for an equal (50-50) allocation of physical custody has been rebutted, a court shall consider all relevant factors including any of the following:

(1) The factors set forth in subdivision (a) of this section;

(2) Whether the child:

(A) Was conceived as a result of sexual assault or sexual abuse by a parent as set forth in §48-9-209a of this code;

(B) Has special needs, a chronic illness, or other serious medical condition and would receive more appropriate care under another custodial allocation;

(C) Is a nursing child less than six months of age, or less than one year of age if the child receives substantial nutrition through nursing;: *Provided*, That the child reaching one year of age shall qualify as a substantial change in circumstances per §48-9-401 of this code; or

(D) Will be separated from his or her siblings or the arrangement would otherwise disrupt the child's opportunities to bond with his or her siblings;

(3) Whether a parent:

~~(A) Is in arrears or currently noncompliant with a previous order of the court regarding payment of child support payments for another child: *Provided*, That any arrearages or noncompliance that are the result of a mistake or miscalculation by the Bureau of Child Support Enforcement may not be used against the parent as a basis for rebutting the presumption for an equal ("50-50") allocation of physical custody and parenting time;~~

~~(B)~~(A) Is unwilling to seek necessary medical intervention for the child who has a serious medical condition;

~~(C)~~(B) Has a chronic illness or other condition that renders him or her unable to provide proper care for the child;

~~(D)~~(C) Has intentionally avoided or refused involvement or not been significantly involved in the child's life prior to the hearing, except when the lack of involvement is the result of actions on the part of the other parent which were, without good cause, designed to deprive the parent of contact and involvement with his or her child or children without good cause;

~~(E) Has professional responsibilities which render him or her unable to devote adequate time to the child;~~

~~(F) Has a work schedule that causes the child or children to be in the care of a third party rather than the other available parent;~~

~~(G)~~(E)(D) Does not have a stable housing situation: *Provided,* That a parent's temporary residence with a child in a domestic violence ~~violation~~ shelter shall not constitute an unsafe housing situation; or

~~(H)~~(F)(E) Is unwilling or unable to perform caretaking functions for the child as required by §48-1-210 of this code;

(4) Whether a parent, partner, or other person living in that parent's household:

(A) Has been adjudicated in an abuse and neglect proceeding to have abused or neglected a child, or has a pending abuse and neglect case;

(B) Has been judicially determined to have committed domestic violence or has a pending domestic violence case;

(C) Has a felony criminal record;

(D) Is addicted to a controlled substance or alcohol;

(E) Has threatened or has actually detained the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody: *Provided,* That a parent's temporary residence with the child in a domestic violence shelter

shall not be construed as evidence of the parent's intent to retain or conceal the child from the other parent; or

~~(E)~~(F) Has been involuntarily committed to a mental health facility, or suffers from a serious mental illness;

(5) Whether an equal (50-50) physical allocation is:

(A) Impractical because of ~~due to~~ the physical distance between the parents' residences;

(B) Impractical due to the cost and difficulty of transporting the child;

(C) Impractical due to each parent's and the child's daily schedules;

(D) Would disrupt the education of the child; or

(E) Contrary to the firm and reasonable preferences of a child who is 14 years of age or older; and to accommodate, if the court determines it is in the best interests of the child, the firm and reasonable preferences of a child under 14 years of age, but sufficiently matured that he or she can intelligently express a voluntary preference for one parent;

(6) Whether the parents cannot work cooperatively and collaboratively in the best interest of the child; or

(7) Whether a parent will encourage and accept a positive relationship between the child and the other parent, including which parent is more likely to keep the other parent involved in the child's life and activities.

§48-9-401. Modification upon showing of changed circumstances or harm.

(a) Except as provided in ~~section 9-402 or 9-403,~~ §48-9-402 or §48-9-403 of this code, a court shall modify a parenting plan order if it finds, on the basis of facts that were not known or have arisen since the entry of the prior order and were not anticipated ~~therein~~ in the prior order, that a substantial change has occurred in the

circumstances of the child or of one or both parents and a modification is necessary to serve the best interests of the child.

(b) In exceptional circumstances, a court may modify a parenting plan if it finds that the plan is not working as contemplated and in some specific way is manifestly harmful to the child, even if a substantial change of circumstances has not occurred.

(c) Unless the parents have agreed otherwise, the following circumstances do not justify a significant modification of a parenting plan except where harm to the child is shown:

(1) Circumstances resulting in an involuntary loss of income, by loss of employment or otherwise, affecting the parent's economic status;

(2) A parent's remarriage or cohabitation, except under the circumstances set forth in §48-9-209(f) of this code; and

(3) Choice of reasonable caretaking arrangements for the child by a legal parent, including the child's placement in day care.

(d) For purposes of subsection (a) of this section, the occurrence or worsening of a limiting factor, as defined in ~~subsection (a), section 9-209,~~ §48-9-209(a) of this code, after a parenting plan has been ordered by the court, constitutes a substantial change of circumstances and measures shall be ordered pursuant to ~~section 9-209~~ §48-9-209 of this code, to protect the child or the child's parent.

§48-9-402. Modification without showing of changed circumstances.

(a) The court shall modify a parenting plan in accordance with a parenting agreement, unless it finds that the agreement is not knowing and voluntary or that it would be harmful to the child.

(b) The court may modify any provisions of the parenting plan without the showing of ~~change~~ the changed circumstances required

by §48-9-401(a) of this code, if the modification is in the child's best interests, and the modification:

(1) Reflects the de facto arrangements under which the child has been receiving care from the petitioner, without objection, in substantial deviation from the parenting plan, for the preceding six months before the petition for modification is filed, provided the arrangement is not the result of a parent's acquiescence resulting from the other parent's domestic abuse;

(2) Constitutes a minor modification in the plan; ~~or~~

(3) Is necessary to accommodate the reasonable and firm preferences of a child who, has attained the age of ~~fourteen~~ 14; or

(4) Is necessary to accommodate the reasonable and firm preferences of a child who, is under the age of ~~fourteen~~ 14 and, in the discretion of the court, is sufficiently matured that he or she can intelligently express a voluntary preference;

(c) Evidence of repeated filings of fraudulent reports of domestic violence or child abuse is admissible in a domestic relations action between the involved parties when the allocation of custodial responsibilities is in issue, and the fraudulent accusations may be a factor considered by the court in making the allocation of custodial responsibilities.

§48-9-602. Designation of custody for the purpose of other state and federal statutes.

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside the majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under a parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time is ~~deemed~~ considered to be the custodian of the child for the purposes of such federal and state statutes. When a court orders that custodial allocation shall be on an equal (50-50) basis, the court shall also specify in its order

which parent may claim state and federal income tax deductions and exemptions for the child or children.: *Provided,* That such claims to state and federal income tax deductions and exemptions for the child or children may alternate between parents year to year.

§48-9-603. Effect of enactment; operative dates.

(a) ~~The enactment of this article, formerly enacted as article eleven of this chapter during the second extraordinary session of the 1999 Legislature, is prospective in operation unless otherwise expressly indicated.~~

~~(b) The provisions of §48-9-202 of this code, insofar as they provide for parent education and mediation, became operative on January 1, 2000. Until that date, parent education and mediation with regard to custody issues were discretionary unless made mandatory under a particular program or pilot project by rule or direction of the Supreme Court of Appeals or a circuit court.~~

~~(c) The provisions of this article that authorize the court, in the absence of an agreement of the parents, to order an allocation of custodial responsibility and an allocation of significant decision-making responsibility became operative on January 1, 2000, at which time the primary caretaker doctrine was replaced with a system that allocates custodial and decision making responsibility to the parents in accordance with this article. Any order entered prior to January 1, 2000, based on the primary caretaker doctrine remains in full force and effect until modified by a court of competent jurisdiction.~~

~~(d)~~ (a) The amendments to this chapter ~~made~~ enacted during the 202~~1~~2 session of the Legislature shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.

(b) The amendments to this chapter enacted during the 2022 Regular Legislative Session ~~regular session of the Legislature, 2022~~, do not constitute a change in circumstances or other basis for modification under §48-9-401 or §48-9-402 of this code.

~~(e)~~ (c) The amendments to this chapter enacted during the ~~regular session of the Legislature, 2022,~~ 2022 Regular Legislative Session shall become applicable upon the effective date of those amendments. Any order entered prior to the effective date of those amendments remains in full force and effect until modified by a court of competent jurisdiction.

(d) The amendments to this chapter enacted during the 2022 Regular Legislative Session ~~regular session of the Legislature, 2022~~, shall be known as the ~~2022~~ Best Interest of the Child Act."

Delegate Pritt moved to amend the amendment on page 3, section 203(e), After "decision" strike the period and insert the following: "; provided, that the doctrine of res judicata shall not be applied or construed to preclude the court from making new findings of fact that are different than or contrary to such findings of fact."

Whereupon,

Delegate Pritt obtained unanimous consent to reform the amendment as follows:

On page 3, section 203(e), After "decision" strike the period and insert the following: "; provided, that the doctrine of res judicata or collateral estoppel shall not be applied or construed to preclude the court from making new findings of fact that are different than or contrary to such findings of fact."

The question being on the adoption of the reformed amendment, the same was put and the amendment was adopted.

Delegate Pritt moved to amend the amendment on page 13, at the end of subsection (4), by striking "or" And inserting the following after "fraudulent.":"(6) has threatened to ask for an equal ("50-50") custodial responsibility allocation to obtain a better settlement on other issues or to otherwise influence the actions of the other parent; provided, that this provision shall be construed in accordance with West Virginia Rule of Evidence 408."

On the question of the adoption of the amendment, division was called for and the Speaker declared the amendment lost.

Unanimous consent was then obtained to consider the following amendments, offered by Delegate Pritt, together and they were adopted:

On page 13, section 209(b), after the phrase "If a parent", by inserting the following: "or another person regularly in the household of the parent".

On page 14, section 209(c), After "If a parent", by inserting the following: "or a person regularly in the home of the parent".

And,

On page 17, after "Whether a parent, partner, or other person living", by inserting the following: "or regularly".

Delegate Pritt then moved to amend the bill on page 17, after the phrase: "Is unwilling or unable to perform", by inserting the following: "an equal amount of"; and, after "of this code" by inserting the following: "or is otherwise not available to care for the child on an equal basis."

The question being on the adoption of the amendment, the same was put and did not prevail.

Delegate Pritt moved to amend the bill on page 17, after the phrase: "mental illness;", by inserting the following: "(G) Has verbally abused the child, denigrated the child, or denigrated a parent of the child in the child's presence;".

Speaker Pro Tempore Howell in the Chair

The question being on the adoption of the amendment, to the amendment, the same was put and did not prevail.

The Judiciary Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 486, Allowing PERS retirees to designate special needs trust as beneficiary; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Householder and Capito, the bill was amended on page 1, following the article heading, by striking section 2 in its entirety and inserting in lieu thereof the following:

"**§5-10-2. Definitions.**

Unless a different meaning is clearly indicated by the context, the following words and phrases as used in this article have the following meanings:

(1) 'Accumulated contributions' means the sum of all amounts deducted from the compensations of a member and credited to his or her individual account in the members' deposit fund, together with regular interest on the contributions;

(2) 'Accumulated net benefit' means the aggregate amount of all benefits paid to or on behalf of a retired member;

(3) 'Actuarial equivalent' means a benefit of equal value computed upon the basis of a mortality table and regular interest adopted by the board of trustees from time to time: *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 mortality tables and interest rates required to comply with those requirements;

(4) 'Annuity' means an annual amount payable by the retirement system throughout the life of a person. All annuities shall be paid in equal monthly installments, rounding to the upper cent for any fraction of a cent;

(5) 'Annuity reserve' means the present value of all payments to be made to a retirant or beneficiary of a retirant on account of any annuity, computed upon the basis of mortality and other tables of experience, and regular interest, adopted by the board of trustees from time to time;

(6) 'Beneficiary' means any person (which shall include an irrevocable special needs trust, as that term is defined in §5-10-2 of this code, for the benefit of one individual beneficiary and which trust terminates upon the death of such individual with no further annuity benefits being payable), except a retirant, who is entitled to, or will be entitled to, an annuity or other benefit payable by the retirement system;

(7) 'Board of Trustees' or 'board' means the Board of Trustees of the West Virginia Consolidated Public Retirement ~~System~~ Board;

(8) 'Compensation' means the remuneration paid a member by a participating public employer for personal services rendered by the member to the participating public employer. In the event a member's remuneration is not all paid in money, his or her participating public employer shall fix the value of the portion of the remuneration which is not paid in money: *Provided,* That members hired in a position for the first time on or after July 1, 2014, who receive nonmonetary remuneration shall not have nonmonetary remuneration included in compensation for retirement purposes and nonmonetary remuneration may not be used in calculating a member's final average salary. Any lump sum or other payments paid to members that do not constitute regular salary or wage payments are not considered compensation for the purpose of withholding contributions for the system or for the purpose of calculating a member's final average salary. These payments include, but are not limited to, attendance or performance bonuses, one-time flat fee or lump sum payments, payments paid as a result of excess budget, or employee recognition payments. The board shall have final power to decide whether the payments shall be considered compensation for purposes of this article;

(9) 'Contributing service' means service rendered by a member within this state and for which the member made contributions to a public retirement system account of this state, to the extent credited him or her as provided by this article;

(10) 'Credited service' means the sum of a member's prior service credit, military service credit, workers' compensation

service credit and contributing service credit standing to his or her credit as provided in this article;

(11) 'Employee' means any person who serves regularly as an officer or employee, full time, on a salary basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, in whole or in part, by any political subdivision, or an officer or employee whose compensation is calculated on a daily basis and paid monthly or on completion of assignment, including technicians and other personnel employed by the West Virginia National Guard whose compensation, in whole or in part, is paid by the federal government: *Provided,* That an employee of the Legislature whose term of employment is otherwise classified as temporary and who is employed to perform services required by the Legislature for its regular sessions or during the interim between regular sessions and who has been or is employed during regular sessions or during the interim between regular sessions in seven or more consecutive calendar years, as certified by the clerk of the house in which the employee served, is an employee, any provision to the contrary in this article notwithstanding, and is entitled to credited service in accordance with provisions of §5-10-14 of this code: *Provided, however,* That members of the legislative body of any political subdivision and ~~judges~~ commissioners of the ~~state Court of Claims~~ West Virginia Claims Commission are employees receiving one year of service credit for each one-year term served and prorated service credit for any partial term served, anything contained in this article to the contrary notwithstanding: *Provided further,* That only a compensated board member of a participating public employer appointed to a board of a nonlegislative body for the first time on or after July 1, 2014, who normally is required to work 12 months per year and 1040 hours of service per year is an employee. In any case of doubt as to who is an employee within the meaning of this article, the board of trustees shall decide the question;

(12) 'Employer error' means an omission, misrepresentation, or deliberate act in violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or the relevant provisions of both the West Virginia Code and of

the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required; ~~A deliberate act contrary to the provisions of this section by a participating public employer does not constitute employer error~~

(13) 'Final average salary' means either of the following: *Provided,* That salaries for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401 (a) (17) of the Internal Revenue Code: *Provided, however,* That the provisions of §5-10-22h of this code are not applicable to the amendments made to this subdivision during the 2011 regular session of the Legislature;

(A) The average of the highest annual compensation received by a member, including a member of the Legislature who participates in the retirement system in the year 1971 or thereafter, during any period of three consecutive years of credited service contained within the member's 15 years of credited service immediately preceding the date his or her employment with a participating public employer last terminated: *Provided,* That for persons who were first hired on or after July 1, 2015, any period of five consecutive years of contributing service contained within the member's fifteen years of credited service immediately preceding the date his or her employment with a participating public employer last terminated; or

(B) If the member has less than five years of credited service, the average of the annual rate of compensation received by the member during his or her total years of credited service; and in determining the annual compensation, under either paragraph (A) or (B) of this subdivision, of a member of the Legislature who participates in the retirement system as a member of the Legislature in the year 1971, or in any year thereafter, his or her actual legislative compensation (the total of all compensation paid under §4-2A-2, §4-2A-3, §4-2A-4, and §4-2A-5 of this code), in the year 1971, or in any year thereafter, plus any other compensation he or she receives in any year from any other participating public employer including the State of West Virginia, without any

multiple in excess of one times his or her actual legislative compensation and other compensation, shall be used: *Provided,* That final average salary for any former member of the Legislature or for any member of the Legislature in the year 1971 who, in either event, was a member of the Legislature on November 30, 1968, or November 30, 1969, or November 30, 1970, or on November 30 in any one or more of those three years and who participated in the retirement system as a member of the Legislature in any one or more of those years means: (i) Either, notwithstanding the provisions of this subdivision preceding this proviso, $1,500 multiplied by eight, plus the highest other compensation the former member or member received in any one of the three years from any other participating public employer including the State of West Virginia; or (ii) final average salary determined in accordance with paragraph (A) or (B) of this subdivision, whichever computation produces the higher final average salary, and in determining the annual compensation under subparagraph (ii) of this paragraph, the legislative compensation of the former member shall be computed on the basis of $1,500 multiplied by eight, and the legislative compensation of the member shall be computed on the basis set forth in the provisions of this subdivision immediately preceding this paragraph or on the basis of $1,500 multiplied by eight, whichever computation as to the member produces the higher annual compensation;

(14) 'Internal Revenue Code' means the Internal Revenue Code of 1986, as amended, codified at Title 26 of the United States Code;

(15) 'Limited credited service' means service by employees of the West Virginia Educational Broadcasting Authority, in the employment of West Virginia University, during a period when the employee made contributions to another retirement system, as required by West Virginia University, and did not make contributions to the Public Employees Retirement System: *Provided,* That while limited credited service can be used for the formula set forth in §5-10-21(e) of this code, it may not be used to increase benefits calculated under §5-10-22 of this code;

(16) 'Member' means any person who has accumulated contributions standing to his or her credit in the members' deposit fund;

(17) 'Participating public employer' means the State of West Virginia, any board, commission, department, institution or spending unit and includes any agency created by rule of the Supreme Court of Appeals having full-time employees, which for the purposes of this article is considered a department of state government; and any political subdivision in the state which has elected to cover its employees, as defined in this article, under the West Virginia Public Employees Retirement System;

(18) 'Plan year' means the same as referenced in §5-10-42 of this code;

(19) 'Political subdivision' means the State of West Virginia, a county, city or town in the state; a school corporation or corporate unit; any separate corporation or instrumentality established by one or more counties, cities or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities or towns; and any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns: *Provided,* That any mental health agency participating in the Public Employees Retirement System before July 1, 1997, is considered a political subdivision solely for the purpose of permitting those employees who are members of the Public Employees Retirement System to remain members and continue to participate in the retirement system at their option after July 1, 1997: *Provided, however,* That the Regional Community Policing Institute which participated in the Public Employees Retirement System before July 1, 2000, is considered a political subdivision solely for the purpose of permitting those employees who are members of the Public Employees Retirement System to remain members and continue to participate in the Public Employees Retirement System after July 1, 2000;

(20) 'Prior service' means service rendered prior to July 1, 1961, to the extent credited a member as provided in this article;

(21) 'Regular interest' means the rate or rates of interest per annum, compounded annually, as the board of trustees adopts from time to time;

(22) 'Required beginning date' means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age ~~seventy and one-half years of age~~ 70.5 (if born before July 1, 1949) or age 72 (if born after June 30, 1949); or (B) the calendar year in which a member ~~who has attained the age seventy and one-half years of age and who~~ ceases providing service covered under this retirement system to a participating employer;

(23) 'Retirant' means any member who commences an annuity payable by the retirement system;

(24) 'Retirement' means a member's withdrawal from the employ of a participating public employer and the commencement of an annuity by the retirement system;

(25) 'Retirement system' or 'system' means the West Virginia Public Employees Retirement System created and established by this article;

(26) 'Retroactive service' means: (1) Service between July 1, 1961, and the date an employer decides to become a participating member of the Public Employees Retirement System; (2) service prior to July 1, 1961, for which the employee is not entitled to prior service at no cost in accordance with 162 CSR ~~5.13~~ 5.12; and (3) service of any member of a legislative body or employees of the State Legislature whose term of employment is otherwise classified as temporary for which the employee is eligible, but for which the employee did not elect to participate at that time;

(27) 'Service' means personal service rendered to a participating public employer by an employee of a participating public employer; ~~and~~

(28) 'Special needs trust' means a trust established pursuant to §44D-8B-13 of this code for an individual beneficiary with a disability and such special needs trust is or will become irrevocable by the time the retiree names the special needs trust as the

beneficiary of retirant's annuity benefits in place of the individual beneficiary and terminates upon the death of the individual beneficiary with no further annuity benefits being payable; and

(29) 'State' means the State of West Virginia."

The bill was then ordered to third reading.

Com. Sub. for S. B. 498, Creating Anti-Racism Act of 2022; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

"**CHAPTER 18. EDUCATION.**

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-9b. Anti-Racism Act of 2022.

(a) A school district, a public charter school, the West Virginia Board of Education, the West Virginia Department of Education, or any employee of the aforementioned entities, within the scope of his or her employment, may not require or otherwise compel a student, teacher, administrator, or other employee to affirm, adopt, or adhere to any of the following concepts:

(1) One race is inherently, morally, or intellectually superior to another race;

(2) An individual, by virtue of the individual's race, is inherently racist or oppressive, whether consciously or unconsciously;

(3) An individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race;

(4) An individual's moral character is determined by the individual's race; or

(5) An individual, by virtue of the individual's race, bears responsibility for actions committed by other members of the same race.

(b) Nothing in subsection (a) of this section prohibits:

(1) The discussion of those concepts in theory as part of an academic course;

(2) The discussion, examination, or debate regarding race and its impact on historical or current events, including the causes of those current or historical events; or

(3) The right to freedom of speech protected by the First Amendment of the United States Constitution and the West Virginia Constitution.

(c) Any student, parent or guardian of a student, or employee aggrieved by an alleged violation of this section may file a complaint with the school principal. Upon an adverse ruling or no ruling within 10 business days by the school principal, any complainant may file an appeal to the county superintendent. Upon an adverse ruling or no ruling within 10 business days by the county superintendent, any complainant may file an appeal to the state superintendent. The state superintendent shall make forms available for students, parents or guardians of a student, and employees to file complaints and appeals pursuant to this subsection.

(d) Each school principal shall report the number of complaints, the nature of each complaint, and the resolution of each complaint filed with him or her the previous school year, to the county superintendent by August 1 each year. The county superintendent shall report the number of complaints, the nature of each complaint, and the resolution of each complaint filed with him or her the previous school year, to the state superintendent by September 1 each year. The state superintendent, or his or her designee, shall report the number of complaints, the nature of each complaint, and the resolution of each complaint filed with him or

her the previous school year, to the Legislative Oversight Commission on Education Accountability by October 1 each year.

(e) The Board of Education is authorized to promulgate rules consistent with this section pursuant to §29A-3B-1 *et seq.* of this code."

Delegates Hornbuckle, Evans Doyle, Walker, Thompson and Griffith moved to amend the amendment on page 1, beginning at the section heading, by striking out the remainder of the amendment and inserting in lieu thereof, the following:

"**§18-2-9b. American History Enrichment Act.**

(a) Legislative findings - The West Virginia Legislature finds that African Americans, Native Americans, women, and other historic minorities have contributed greatly to our communities, the State of West Virginia and to our country. Because these citizens have in the past been excluded from the economic and social opportunities afforded other Americans, their ability to contribute and their role in our collective history has been diminished and denied, and many of their contributions have been under recognized.Many Americans have struggled reconciling the portion of our collective history that was racist and exclusionary with the broader narrative of the great beacon of democracy we as a country have strived to be and have become closer to realize. As time passes and our interpretation of our history turns into a longer view, it is appropriate to review how our collective story is told, particularly to our next generation of West Virginians and Americans, and to provide them a fair and accurate recounting that respects all of the citizens of the past and honors but also addresses painful truths about our history. Therefore, the purpose of this section is to establish a Commission on American History Enrichment, comprised of experts in state and national history and student curriculum, to be coordinated with the State Department of Education, to review, recommend, and revise lessons taught the students of the state that includes fair representations of all West Virginians and Americans, and particularly the underrepresented history of the African Americans, Native Americans, women, and other historic minorities in our communities, state, and nation to

allow us to better understand our past so to help us to look to a brighter future.

(b) There is hereby created the Commission on American History Enhancement within the West Virginia Department of Education. The Commission shall consist of the following members:

(1) A faculty member from Marshall University recommended by the Carter G. Woodson Lyceum as recommended by the President of Marshall University;

(2) A faculty member from West Virginia University's Center for Women and Gender Studies as recommended by the President of West Virginia University;

(3) A faculty member from West Virginia State University as appointed by the President of West Virginia State University;

(4) The Executive Director of the Bill and Bonnie Stubblefield Institute for Civil Political Communication at Shepard University, or his or her designee;

(5) A representative of the State Board of Education as appointed by the board, who shall serve as chair of the commission;

(6) Three public school teachers with an expertise in history or curriculum as appointed by the state board of education; and

(7) Three public school teachers representing historic minorities of this state or country appointed by the state board.

(c) The commission shall meet periodically at the call of the chair or by request of a majority of the members. The commission shall review existing course materials for any history lesson plans, books and material revisions and determine any appropriate revisions to content and design are appropriate due to a lack of balance and consideration of the role and treatment of historic minorities in the history of West Virginia and the United States. The commission shall develop recommendations for age-appropriate lesson plans for history courses for public schools. The

commission shall at least annually provide a report to the state school board of its recommendations for any of these curriculum changes.

(d) All actual and necessary travel expenses and per diem pay of the members of the commission shall be reimbursed by the Department of Education. The per diem pay for commission members shall be the same as for members of the Legislature pursuant to §4-2A-7 of this code."

Delegate Ellington arose to inquire of the Chair as to the germaneness of the amendment to the amendment.

The Speaker Pro Tempore ruled that the amendment was not germane to the purpose of the bill.

Delegate Hornbuckle then challenged the ruling of the Chair.

Delegate Espinosa, Majority Whip, in the Chair

The appeal was sustained.

During debate, points of order were raised by Delegate Steele regarding remarks by Delegate Fleischauer, and by Delegate Hanna regarding remarks by Delegate Pushkin, and Delegate Espinosa ruled the points well taken.

Mr. Speaker, Delegate Hanshaw, in the Chair

On the question of sustaining the ruling by Speaker Pro Tempore Howell, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken **(Roll No. 539)**, and there were—yeas 75, nays 21, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Barach, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Boggs, Cooper, Pack and Paynter.

So, a majority of the members present having voted in the affirmative, the ruling of Speaker Pro Tempore Howell was sustained.

To avoid a potential conflict between two amendments, the House proceeded to first consider an amendment offered by Delegate Capito and the amendment was amended on page 2, section 9b, line 19, by striking out the remainder of the amendment and inserting in lieu thereof the following:

"(c) Any student, parent or guardian of a student, or employee who believes that this act has been violated, may file a complaint pursuant to the state board policy on conflict resolution.

(d) The number, nature and resolution of each substantiated complaint for the previous year shall be reported as follows:

(1) Each school principal shall report to the county superintendent by August 1 each year;

(2) The county superintendent shall report to the state superintendent by September 1 each year; and

(3) The state superintendent, or his or her designee, shall report to the Legislative Oversight Commission on Education Accountability by October 1 each year.

(e) If necessary for the implementation of this section, the Board of Education is authorized to promulgate additional emergency and legislative rules pursuant to §29A-3B-1 *et seq.* of this code."

Delegates Thompson, Hornbuckle, Evans, Doyle, Walker, and Griffith moved to amend the amendment on page 2, line 36, following the period by inserting a new subsection to read as follows:

"(e) Prior to initial attainment, or renewal, of a teaching certificate licensing a teacher in this state to teach in the public

schools or public charter schools, each teacher shall obtain training in cultural competency. The state board shall approve curriculum for any program hosting cultural competency training for purposes of meeting the requirements of this section. The training shall include evaluations on standards of professional development to include cultural competency and culturally responsive teaching. The state board may consult with any agency or group which consults on issues of cultural competency to host trainings which may meet the requirements of this section. The state board shall partner with state universities and programs, including, West Virginia University, West Virginia State University, and Marshall University's Carter G. Woodson Lyceum, to host workshops meeting the criteria of this section. For purposes of this section, the term "cultural competency" shall mean education on different cultural traditions, practices, world views, and language usage that exist in our society based on ethnicity, race, or other factors that reflect the diversity of American society."

In the absence of objection, the amendment was reformed as follows:

"(f) Prior to initial attainment, or renewal, of a teaching certificate licensing a teacher in this state to teach in the public schools or public charter schools, each teacher shall obtain training in cultural competency. The state board shall approve curriculum for any program hosting cultural competency training for purposes of meeting the requirements of this section. The training shall include evaluations on standards of professional development to include cultural competency and culturally responsive teaching. The state board may consult with any agency or group which consults on issues of cultural competency to host trainings which may meet the requirements of this section. The state board shall partner with state universities and programs, including, West Virginia University, West Virginia State University, and Marshall University's Carter G. Woodson Lyceum, to host workshops meeting the criteria of this section. For purposes of this section, the term "cultural competency" shall mean education on different cultural traditions, practices, world views, and language usage that

exist in our society based on ethnicity, race, or other factors that reflect the diversity of American society."

On the adoption of this amendment to the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken **(Roll No. 540)**, and there were—yeas 23, nays 73, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Kessinger, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Tully, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Boggs, Cooper, Pack and Paynter.

So, a majority of the members present not having voted in the affirmative, the amendment to the amendment was rejected.

The Judiciary Committee amendment, as amended, was then adopted.

The bill was ordered to third reading.

Com. Sub. for S. B. 530, Encouraging public-private partnerships in transportation; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page 4, section 4, lines 4-6 by unstriking the entire sentence and provisio starting with "The review shall... " and adding in the word, after the words "review of" on line 6, "an unsolicited" and adding after the word "proposal" the following "or proposals" and,

To amend the bill on page 8, section 5, line 74, by adding the following: "*Provided*, That moneys used by the state road fund shall not exceed $100 million." And,

To amend the bill on page 14, section 9, line 65, before the period the following: "and the commissioner shall provide notice to the public"

The bill was ordered to third reading.

At 6:23 p.m., on motion of Delegate Summers, the House of Delegates recessed for fifteen minutes.

* * * * * * *

Evening Session

* * * * * * *

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

Reordering of the Calendar

During the recess, Com. Sub. for S. B. 533, Com. Sub. for S. B. 536, S. B. 548, Com. Sub. for S. B. 550, Com. Sub. for S. B. 552, Com. Sub. for S. B. 568, Com. Sub. for S. B. 573, Com. Sub. for S. B. 574, Com. Sub. for S. B. 582, Com. Sub. for S. B. 588, Com. Sub. for S. B. 590, Com. Sub. for S. B. 606, Com. Sub. for S. B. 609, Com. Sub. for S. B. 610, Com. Sub. for S. B. 611, S. B. 617, Com. Sub. for S. B. 647, Com. Sub. for S. B. 653, Com. Sub. for S. B. 656, Com. Sub. for S. B. 659, Com. Sub. for S. B. 662, Com. Sub. for S. B. 668, S. B. 685, S. B. 686, S. B. 711, S. B. 714 and S. B. 726 on Second Reading, Special Calendar, were transferred to the House Calendar by the Committee on Rules.

Special Calendar

Second Reading

- continued –

S. B. 729, Relating to funding for infrastructure and economic development projects in WV; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance was reported by the Clerk and adopted on page 1, following the enacting clause, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

"**CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

ARTICLE 6C. WEST VIRGINIA BOARD OF TREASURY INVESTMENTS.

§12-6C-11. Legislative findings; loans for industrial development; availability of funds and interest rates.

(a) ~~The Legislature finds and declares that the citizens of the state benefit from the creation of jobs and businesses within the state; that business and industrial development loan programs provide for economic growth and stimulation within the state; that loans from pools established in the Consolidated Fund will assist in providing the needed capital to assist business and industrial development; and that time constraints relating to business and industrial development projects prohibit duplicative review by both the board and West Virginia Economic Development Authority Board.~~

(b) Subject to a liquidity determination, the West Virginia Board of Treasury Investments shall make a revolving loan available to the West Virginia Economic Development Authority in an amount of up to $200 million. The revolving loan shall be used for business or industrial development projects authorized by §31-15-7 of this code and to consolidate existing loans authorized to be made to the West Virginia Economic Development Authority pursuant to this section and pursuant to §31-15-20 of this code which authorizes a $150 million revolving loan and §31-18B-1 *et seq.* of this code which authorizes a $50 million investment pool: *Provided*, That the West Virginia Economic Development Authority may not loan more than $15 million for any one business or industrial development project. The revolving loan authorized by this subsection shall be secured by one note at a variable interest rate equal to 50 percent of the West Virginia Economic Development Authority's weighted average interest rate for

outstanding loans in the Business and Industrial Development Loan Program authorized by §31-15-7 of this code. The rate may not be lower than 1.50 percent and must be reset on July 1 of each year. Monthly payments made by the West Virginia Economic Development Authority to the board shall be calculated on a 120-month amortization. The revolving loan is secured by a security interest that pledges and assigns the cash proceeds of collateral from all loans under this revolving loan pool. The West Virginia Economic Development Authority may also pledge as collateral certain revenue streams from other revolving loan pools which source of funds does not originate from federal sources or from the board.

(c) The outstanding principal balance of the revolving loan from the board to the West Virginia Economic Development Authority may at no time exceed 103 percent of the aggregate outstanding principal balance of the business and industrial loans from the West Virginia Economic Development Authority to economic development projects funded from this revolving loan pool. The independent audit of the West Virginia Economic Development Authority financial records shall annually certify that 103 percent requirement.

(d) The interest rates and maturity dates on the loans made by the West Virginia Economic Development Authority for business and industrial development projects authorized by §31-15-7 of this code shall be at competitive rates and maturities as determined by the West Virginia Economic Development Authority Board.

(e) Any and all outstanding loans made by the West Virginia Board of Treasury Investments, or any predecessor entity, to the West Virginia Economic Development Authority are refundable by proceeds of the revolving loan contained in this section and the board shall make no loans to the West Virginia Economic Development Authority pursuant to §31-15-20 of this code or §31-18B-1 *et seq.* of this code.

(f) The directors of the West Virginia Board of Treasury Investments shall bear no fiduciary responsibility with regard to any of the loans contemplated in this section.

(g) *Inspection of records*. – Within 30 days of receiving a written request from the board, the authority shall provide the board with the opportunity to inspect and copy any records in the custody of the authority related to any loan issued by the board to the authority or any loan from the authority to a third party funded by a loan issued by the board. Records to be made available pursuant to this subsection include, but are not limited to, accounting records, loan applications, loan agreements, board minutes, audit reports, and transaction records. Records of the authority held, from time to time, by the board pursuant to this subsection that are exempt from disclosure pursuant to the provisions of §31-15-22 of this code or §29B-1-1 *et seq.* of this code shall remain so while held by the board.

(h) Notwithstanding any other provision of this code to the contrary, the West Virginia Economic Development Authority shall pay to the West Virginia Board of Treasury Investments the entire outstanding balance of the revolving loan authorized by this section within 30 days of the balance in the Economic Development Project Fund created in §31-15-23a of this code becoming $600 million or more. Upon the repayment of the outstanding loan balance, the revolving loan authorized by this section shall terminate and no additional loan moneys shall be made available to the West Virginia Economic Development Authority pursuant to this section.

§12-6C-11b. Infrastructure investment reimbursement fund.

(a) The West Virginia Board of Treasury Investments shall make available to the Department of Transportation, subject to a liquidity determination, a revolving loan of up to $200 million from the Consolidated Fund for the purposes authorized by this section. The loan moneys shall be deposited in a special revenue fund, known as the Infrastructure Investment Reimbursement Fund.

(b) The Board of Treasury Investments shall make the loan moneys authorized by this section available upon receipt of the following:

(1) A written request by the Secretary of the Department of Transportation that the board deposit a specific amount of loan moneys, subject to the limitations provided in this section, into the Infrastructure Investment Reimbursement Fund;

(2) A written statement by the Secretary of the Department of Transportation certifying that the Department of Transportation will use the loan moneys for expenditures meeting the requirements of subsection (c) of this section; and

(3) Copies of any available documents demonstrating that the planned expenditures of loan moneys meet the requirements of subsection (c) of this section, including but not limited to any agreement or contract entered into by the Department of Transportation and the federal government.

(c) The Secretary of the Department of Transportation may authorize expenditures from the Infrastructure Investment Reimbursement Fund that qualify for cost reimbursement according to an agreement with the federal government pursuant to the Infrastructure Investment and Jobs Act, Public Law 117-58, 135 Stat. 429 (2021): *Provided,* That the Secretary may also authorize expenditures to political subdivisions of the state pursuant to agreements they may have with the federal government pursuant to the Infrastructure Investment and Jobs Act, Public Law 117-58, 135 Stat. 429 (2021). If the federal reimbursement to the Department of Transportation or a political subdivision of the state pursuant to an agreement is less than one hundred percent of the amount that must be expended by the Secretary or political subdivision, the Secretary may only request an amount equal to the expected reimbursement.

(d) Upon receiving moneys from the federal government to reimburse for expenditures from the Infrastructure Investment Reimbursement Fund, the Secretary of the Department of Transportation or political subdivision shall immediately reimburse the Infrastructure Investment Reimbursement Fund in an amount equal to the pro rata amount the expenditure from the fund is to the whole reimbursement payment.

(e) Any balance remaining in the fund at the end of each fiscal year shall be transferred to the Consolidated Fund. If, at any time during a fiscal year, the secretary determines that the balance in the fund exceeds the amount required for expenditures authorized in subsection (c) of this section, the Secretary shall provide notice of said determination to the Board of Treasury Investments and the balance of the fund shall be transferred to the Consolidated Fund.

(f) The secretary shall prepare and submit a quarterly report to the Joint Committee on Government and Finance, the Board of Treasury Investments, and the Governor which shall include, at a minimum:

(1) The aggregate outstanding amount of the loan authorized by this section; and

(2) For each project for which loan moneys were expended, the status of the project, the estimated completion date of the project, the amount of loan moneys expended for the project, the amount of state road moneys expended for the project, the amount of federal reimbursement moneys received for the project, and the remaining amount of federal reimbursement moneys projected to be received for the project.

(g) Upon request of the Board of Treasury Investments, the Secretary of the Department of Transportation shall provide the board with the opportunity to inspect and copy any records in the custody of the Department related to any transaction involving the Infrastructure Investment Reimbursement Fund. Records to be made available pursuant to this subsection include, but are not limited to, accounting records, contracts or agreements, audit reports, and transaction records.

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§31-15-20. AUTHORITY OF THE BOARD OF INVESTMENTS.

[Repealed].

§31-15-23a. Economic Development Project Fund.

(a) For the purposes of this section, the term "high impact development project" means a project meeting the following criteria, according to a resolution adopted in a meeting of the authority:

(1) The project has been approved for financing by the authority in an amount of $50 million or greater;

(2) The development agency or enterprise undertaking the project will privately invest an amount of $50 million or greater in the project; and

(3) The project is reasonably projected to create 200 or more jobs in the state.

(b) There is hereby created a special revenue fund in the State Treasury known as the Economic Development Project Fund. Expenditures from the fund shall be for the purposes set forth in this section 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 §12-3-1 *et seq.* of this code. The fund shall consist of all moneys appropriated to the Economic Development Authority during the regular session of the Legislature, 2022, from available revenue surplus funds, transfers from the Industrial Development Loans (fund 9061), any earnings or interest accruing to said fund, and any other moneys appropriated to said fund by the Legislature.

(c) The Economic Development Authority shall transfer all funds in the Industrial Development Loans (fund 9061) to the Economic Development Project Fund created by this section and any loan repayments or other amounts that would otherwise have been paid into the Industrial Development Loans (fund 9061) shall be paid into the Economic Development Project Fund created by this section.

(d) The authority may use moneys in the Economic Development Project Fund to finance projects of industrial development agencies or enterprises according to the requirements of this article: *Provided,* That a minimum of $400 million in the fund must be reserved to finance high impact development projects.

(e) The authority shall keep itemized records of all fund transactions and agreements entered into in furtherance of Economic Development Project Fund expenditures. In administering the fund, the authority shall adopt appropriate accounting practices and internal controls, including but not limited to, strict compliance with the requirements of §5A-8-9 of this code. Fund transactions shall be subject to an annual audit by an independent firm of certified public accountants.

(f) The authority shall prepare and submit to the Joint Committee on Government and Finance and the Governor an annual report addressing the status of each project with outstanding financing issued pursuant to this section. The report shall, at a minimum, provide project-specific data addressing:

(1) The outstanding amount of Authority financing for each project;

(2) The total amount of private investment in each project;

(3) The number of jobs created by each project since the project's inception; and

(4) The number of jobs maintained by each project."

The bill was then ordered to third reading.

Miscellaneous Business

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegate Mazzocchi regarding Com. Sub. for S. B. 261

Delegate Miller noted to the Clerk that he was absent when the vote was taken on Com. Sub. for S. B. 528, and had he been present, he would have voted "Yea" thereon.

Delegate Summers objected to remarks being made by Delegate Barach during announcements, which objection was sustained by the Speaker.

At 6:52 p.m., the House of Delegates adjourned until 9:00 a.m., Friday, March 11, 2022.