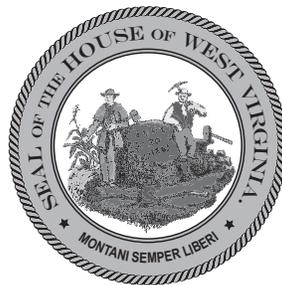


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NINTH DAY

Wednesday, June 19, 2019

NINTH DAY

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

The House of Delegates met at 11:00 a.m., and 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, June 18, 2019, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Summers announced that the Committee on Rules had transferred H. B. 120 and H. B. 134, on Third Reading, Special Calendar, to the House Calendar; and H. B. 168, on Second Reading, Special Calendar, to the House Calendar.

Special Calendar

Third Reading

H. B. 132, Supplementing and amending existing items of appropriations to the Department of Agriculture; on third reading, coming up in regular order, with the right to amend, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 852**), and there were—yeas 94, nays 1, absent and not voting 5, with the yeas and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 132) passed.

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

On this question, the yeas and nays were taken (**Roll No. 853**), 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: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 132) 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. 144, West Virginia Business Ready Sites Program; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

Delegate Howell asked and obtained unanimous consent to be added as cosponsor of H. B. 144.

On motion of Delegate Howell, the bill was amended on page one, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1n. West Virginia Business Ready Sites Program.

(a) The Legislature finds and declares that:

(1) Presently, West Virginia’s available industrial sites lack competitiveness with industrial sites in surrounding states due in part to the lack of presently constructed, adequate utility infrastructure serving sites having industrial potential;

(2) Having construction-ready industrial sites with adequately developed utility infrastructure will increase the state’s potential to attract new industrial projects to the state and advance the state’s economic development efforts;

(3) Incentivizing utilities to construct adequate public utility infrastructure and provide services to sites identified as having industrial potential will increase the likelihood that such sites are developed; and

(4) Responsibly increasing the number of industrial sites with adequate and fully developed utility services is in the public interest of the state.

(b) Definitions. – For the purpose of this section:

(1) ‘Industrial Development Agency’ means any incorporated organization, foundation, association, or agency to whose members or shareholders no profit inures, which has as its primary function the promotion, encouragement, and development of industrial, commercial, manufacturing, and tourist enterprises or projects in this state;

(2) ‘Industrial Development Site’ means a land development containing a minimum of 50 contiguous acres that is identified by the secretary as having potential for industrial development and that does not currently have adequate public utility services from one or more public utilities regulated by the Public Service Commission;

(3) ‘Secretary’ means the Secretary of the Department of Commerce; and

(4) ‘Utility’ means electricity, natural gas, water, or sewage service provided by a public utility regulated by the Public Service Commission.

(c) The secretary shall identify a pilot program known hereafter as ‘The West Virginia Business Ready Sites Program’ for the purpose of promoting economic development in certain areas of the state by facilitating the construction of utility infrastructure necessary to increase the attractiveness of such sites for industrial development within the state.

(d) An industrial development agency may identify a potential industrial development site and apply to the secretary for approval of the site as an industrial development site.

(e) Upon receipt of the application, the secretary shall determine whether the potential industrial development site has the attributes to accomplish the public purposes of this section; and, upon determining that the site has such attributes, the secretary may certify the site as an industrial development site and communicate such certification to the Public Service Commission.

(f) After the Public Service Commission receives the certification described in subsection (e) of this section, public utilities may file with the Public Service Commission an application for a multi-year comprehensive plan for infrastructure development to construct public utility infrastructure and provide services to industrial development sites. Subject to commission review and approval, a plan may be amended and updated by the public utility as circumstances warrant. The recovery of costs in support of the plans shall be allowed in the manner set forth in this section if the proposed plans have been found to be prudent and useful.

(g) The application submitted to the Public Service Commission under subsection (f) of this section is in lieu of a proceeding pursuant to §24-2-11 of this code and shall contain the following:

(1) A description of the infrastructure program, in such detail as the Public Service Commission prescribes, and the projected annual amount in approximate line sizes and feet, general location, type, and projected installation timing of the facilities that the applicant proposes to replace, construct, or improve;

(2) The projected net cost, on an annual basis, of the replacement, construction, or improvements;

(3) The projected start date for the infrastructure program;

(4) The projected numbers of potential new customers that may be served by the infrastructure program and the projected annual demand for public utility services of the customers;

(5) The projected debt for the infrastructure program funding and the projected capital structure for infrastructure program funding;

(6) A proposed full and timely cost recovery mechanism consistent with this section; and

(7) Other information the applicant considers relevant or the Public Service Commission requires.

(h) Upon filing of the application, the applicant shall publish, in the form the Public Service Commission directs, which form shall include, but not be limited to, the anticipated rates and, if any, rate increase under the proposal, by average percentage and dollar amount for customers within a class of service, as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, the publication area to be each county in which service is provided by the public utility, a notice of the filing of the application, and that the commission shall hold a hearing on the application within 90 days of the notice; unless no opposition to the rate change is received by the commission within one week of the proposed hearing date, in which case the hearing can be waived, and issue a final order within 150 days of the application filing date.

(i) Upon notice and hearing, if required by the Public Service Commission, the commission shall approve the infrastructure program and allow expedited recovery of costs related to the expenditures as provided in subsection (j) of this section if the commission finds that the expenditures and the associated rate requirements are just, reasonable, and are not contrary to the public interest: *Provided*, That the commission may approve infrastructure programs undertaken in connection with

a maximum of 10 industrial development sites under this program: *Provided, however,* That no more than four industrial development sites shall be located in any one congressional district, as such congressional districts are defined in §1-2-3 of this code on the effective date of this section: *Provided further,* That if the number of congressional districts is reduced to two, that no more than five industrial development sites shall be located in any one congressional district.

(j) Upon Public Service Commission approval, utilities will be authorized to implement the infrastructure programs and to recover related incremental costs, net of contributions to recovery of return, operation and maintenance, depreciation and tax expenses directly attributable to the infrastructure program served by the infrastructure program investments, if any, as provided in the following:

(1) An allowance for return shall be calculated by applying a rate of return to the average planned net incremental increase to rate base attributable to the infrastructure program for the coming year, considering the projected amount and timing of expenditures under the infrastructure program plus any expenditures in previous years of the infrastructure program. The rate of return shall be determined by utilizing the rate of return on equity authorized by the Public Service Commission in the public utility's most recent rate case proceeding or in the case of a settled rate case, a rate of return on equity as determined by the commission, and the projected cost of the public utility's debt during the period of the infrastructure program to determine the weighted cost of capital based upon the public utility's capital structure.

(2) Income taxes applicable to the return allowed on the infrastructure program shall be calculated at the statutory tax rate for inclusion in rates.

(3) Incremental operation and maintenance, depreciation, and property tax expenses directly attributable to the infrastructure program shall be estimated for the upcoming year.

(4) Following Public Service Commission approval of its infrastructure program, a public utility shall place into effect rates that include an increment that recovers the allowance for return, related income taxes at the statutory rate, operation and maintenance, depreciation, and property tax expenses associated with the public utility's estimated infrastructure program investments for the upcoming year, net of contributions to recovery of those incremental costs provided by new customers served by the infrastructure program investments, if any. In each year subsequent to the order approving the infrastructure program and the incremental cost recovery increment, the public utility shall file a petition with the Public Service Commission setting forth a new proposed incremental cost recovery increment based on investments to be made in the subsequent year, plus any under-recovery or minus any over-recovery of actual incremental costs attributable to the infrastructure program investments, for the preceding year.

(5) The facilities installed in an application approved by the Public Service Commission shall be considered used and useful as of the date of construction expenditure for rate recovery.

(k) The public utility may make any accounting accruals necessary to establish a regulatory asset or liability through which actual incremental costs incurred and costs recovered through the rate mechanism are tracked.

(l) Utilities may defer incremental operation and maintenance expenditures attributable to regulatory and compliance-related requirements introduced after the public utility's last rate case proceeding and not included in the public utility's current rates. In a future rate case, the Public Service Commission may allow recovery of the deferred costs amortized over a reasonable period of

time to be determined by the commission provided the commission finds that the costs were reasonable and prudently incurred and were not reflected in rates in prior rate cases.

(m) The provisions of this section shall expire on December 31, 2024. The expiration of this section shall not affect the full and timely cost recovery of constructing a project that is commenced pursuant to this section prior to such date.

(n) The provisions of this section are effective upon passage.”

Delegates Doyle, S. Brown and Fleischauer moved to amend the bill on page 3, section 1n, line 49, by striking out the words “is in lieu of” and inserting in lieu thereof the words “shall be considered in”.

And,

On page 6, Section 1n, lines 116 and 117, by striking out subdivision (5) in its entirety and inserting in lieu thereof the following:

“(5) The facilities installed in an application to the Public Service Commission shall be reviewed by the Public Service Commission to determine whether they are used and useful before approving the project for rate recovery.”

The question being on the adoption of the amendment, the same was put and did not prevail.

Delegates Doyle, S. Brown and Fleischauer moved to amend the bill on page 3, section 1n, line 37, following the period, by inserting the following sentence: “Such certification may only be made after an environmental impact statement is prepared by the Department of Environmental Protection that shows no potential negative impact on groundwater and only after a public hearing is held in the county where the site will be located.”

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. 854**), and there were—yeas 30, nays 65, absent and not voting 5, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Bates, S. Brown, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Hansen, Hicks, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pushkin, Pyles, Rodighiero, Rowe, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

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

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

Delegate Porterfield moved the previous question.

On this question, the yeas and nays were taken (**Roll No. 855**), and there were—yeas 19, nays 75, absent and not voting 6, with the yeas and absent and not voting being as follows:

Yeas: Atkinson, Azinger, Bibby, Butler, Cadle, Cooper, Ellington, Fast, Foster, Hamrick, Hott, D. Jeffries, Kump, Malcolm, C. Martin, Paynter, Porterfield, Steele and Wilson.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham, Sponaugle and Toney.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 856**), and there were—yeas 80, nays 15, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Bates, S. Brown, Campbell, Diserio, Doyle, Fleischauer, Hansen, J. Jeffries, Lavender-Bowe, Lovejoy, McGeehan, Pushkin, Staggers, Swartzmiller and Walker.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 144) passed.

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

H. B. 144 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-1n, relating to creating a pilot program to encourage utility infrastructure development to certain lands; declaring certain legislative findings; defining certain terms; requiring the Secretary of Commerce to consider certain applications; allowing the secretary to certify sites that do not currently have adequate public utility services from one or more public utilities regulated by the Public Service Commission as having potential for industrial development; requiring the Public Service Commission to consider certain multi-year comprehensive plans for infrastructure development to construct public utility infrastructure and provide services to industrial development sites as certified by the secretary, in lieu of a proceeding pursuant to §24-2-11 of the code; requiring the applicant to publish the anticipated rates and, if any, rate increase under the proposal, by average percentage and dollar amount for customers within a class of service, as a Class I legal advertisement; providing the Public Service Commission with the authority to allow certain public utility infrastructure projects to recover certain costs via ratemaking; providing for the expiration of certain statutory provisions; and providing for an effective date of the provisions of this section."

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

H. B. 146, Establishing and funding of substance use disorder treatment and recovery facilities; on third reading, coming up in regular order, with the right to amend, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 857**), 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: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

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

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

H. B. 146 - "A Bill to amend and reenact §16-53-1 of the Code of West Virginia, 1931, as amended, relating substance use disorder; clarifying who is eligible to receive funds; providing the secretary with discretion to decide who is eligible to funds; and removing certain limitations on funding limitations."

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

H. B. 148, Making a supplementary appropriation to the Executive, Governor's Office; on third reading, coming up in regular order, with the right to amend, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 858**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 148) passed.

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

On this question, the yeas and nays were taken (**Roll No. 859**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 148) 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. 149, Making a supplementary appropriation to the Executive, Governor's Office, Civil Contingent Fund; on third reading, coming up in regular order, with the right to amend, was read a third time.

Delegates Linville, Mandt and Hornbuckle asked and obtained unanimous consent to be added as cosponsors of the bill.

On the passage of the bill, the yeas and nays were taken (**Roll No. 860**), 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: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 149) passed.

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

On this question, the yeas and nays were taken (**Roll No. 861**), 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: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 149) 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. 150, Making a supplementary appropriation to the Department of Revenue, Office of the Secretary, Home Rule Board Operations Fund; on third reading, coming up in regular order, with the right to amend, was read a third time.

Delegate Howell requested to be excused from voting on the passage of H. B. 150 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

On the passage of the bill, the yeas and nays were taken (**Roll No. 862**), and there were—yeas 86, nays 9, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Dean, D. Jeffries, J. Jeffries, P. Martin, McGeehan, Pack, Paynter, Steele and Wilson.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 150) passed.

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

On this question, the yeas and nays were taken (**Roll No. 863**), and there were—yeas 90, nays 5, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Dean, McGeehan, Paynter, Steele and Wilson.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 150) 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. 151, Making a supplementary appropriation to the Department of Arts, Culture and History, Division of Culture and History, Lottery Education Fund; on third reading, coming up in regular order, with the right to amend, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 864**), and there were—yeas 87, nays 8, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Bibby, Fast, Foster, J. Jeffries, Kump, Paynter, Porterfield and Wilson.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 151) passed.

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

On this question, the yeas and nays were taken (**Roll No. 865**), and there were—yeas 89, nays 5, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: J. Jeffries, Kump, McGeehan, Paynter and Porterfield.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham, Sponaugle 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. 151) 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. 152, Making a supplementary appropriation by adding a new item and increasing the expenditure to the Department of Revenue, State Budget Office; on third reading, coming up in regular order, with the right to amend, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 866**), 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, Cowles, Fluharty, Higginbotham, Sponaugle and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 152) passed.

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

On this question, the yeas and nays were taken (**Roll No. 867**), 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, Cowles, Fluharty, Higginbotham, Sponaugle 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. 152) 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. 153, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health, Central Office; on third reading, coming up in regular order, with the right to amend, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 868**), 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: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 153) passed.

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

On this question, the yeas and nays were taken (**Roll No. 869**), 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: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 153) 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. 156, Making a supplementary appropriation to the Department of Environmental Protection, Division of Environmental Protection; on third reading, coming up in regular order, with the right to amend, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 870**), and there were—yeas 83, nays 12, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Bibby, Butler, Cadle, Criss, Dean, Fast, Foster, Hardy, Kessinger, P. Martin, Paynter and Wilson.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 156) passed.

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

On this question, the yeas and nays were taken (**Roll No. 871**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Paynter.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 156) 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. 157, Making a supplementary appropriation to the Department of Military Affairs and Public Safety, Division of Homeland Security and Emergency Management; on third reading, coming up in regular order, with the right to amend, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 872**), and there were—yeas 89, nays 5, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Dean, Fast, Kump, McGeehan and Paynter.

Absent and Not Voting: Barrett, Cowles, Fluharty, Hicks, Higginbotham and Sponaule.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 157) passed.

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

On this question, the yeas and nays were taken (**Roll No. 873**), and there were—yeas 90, nays 3, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Kump, McGeehan and Paynter.

Absent and Not Voting: Barrett, Cowles, Doyle, Fluharty, Hicks, Higginbotham and Sponaule.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 157) 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. 158, Improving education by requiring the state board to establish rules for student accountability regarding performance; on third reading, coming up in regular order, with the right to amend, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 874**), and there were—yeas 84, nays 10, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Bates, Bibby, S. Brown, Butler, Foster, J. Jeffries, Kump, McGeehan, Waxman and Wilson.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham, Kessinger and Sponaule.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 158) 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. 159, Relating to information technology access for the blind and visually impaired; on third reading, coming up in regular order, with the right to amend, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 875**), 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: Barrett, S. Brown, Cowles, Fluharty, Higginbotham, Kessinger and Sponaule.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 159) 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. 160, Ron Yost Personal Assistance Services Act; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

Delegates Steele and Pack moved to amend the bill on page one, before article 59, by adding the following:

“ARTICLE 3. PREVENTION AND CONTROL OF COMMUNICABLE AND OTHER INFECTIOUS DISEASES.

§16-3-4. Compulsory immunization of school children; information disseminated; offenses; penalties.

(a) Whenever a resident birth occurs, the commissioner shall promptly provide parents of the newborn child with information on immunizations mandated by this state or required for admission to a public, ~~private and parochial~~ school in this state or a state-regulated child care center.

(b) Except as hereinafter provided, a child entering a public school or a state-regulated child care center in this state must be immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough.

(c) No child or person may be admitted or received in ~~any of the~~ public schools of the state or a state-regulated child care center until he or she has been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough or produces a certificate from the commissioner granting the child or person an exemption from the compulsory immunization requirements of this section.

(d) Any public school or state-regulated child care center personnel having information concerning any person who attempts to be enrolled in a public school or state-regulated child care center without having been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough shall report the names of all such persons to the commissioner.

(e) Persons may be provisionally enrolled under minimum criteria established by the commissioner so that the person's immunization may be completed while missing a minimum amount of school. No person shall be allowed to enter a public school without at least one dose of each required vaccine.

(f) County health departments shall furnish the biologicals for this immunization for children of parents or guardians who attest that they cannot afford or otherwise access vaccines elsewhere.

(g) Health officers and physicians who provide vaccinations must present the person vaccinated with a certificate free of charge showing that they have been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough, or he or she may give the certificate to any person or child whom he or she knows to have been

immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough.

(h) The commissioner is authorized to grant, renew, condition, deny, suspend or revoke exemptions to the compulsory immunization requirements of this section, on a statewide basis, upon sufficient medical evidence that immunization is contraindicated or there exists a specific precaution to a particular vaccine.

(1) A request for an exemption to the compulsory immunization requirements of this section must be accompanied by the certification of a licensed physician stating that the physical condition of the child is such that immunization is contraindicated or there exists a specific precaution to a particular vaccine.

(2) The commissioner is authorized to appoint and employ an Immunization Officer to make determinations on request for an exemption to the compulsory immunization requirements of this section, on a statewide basis, and delegate to the Immunization Officer the authority granted to the commissioner by this subsection.

(3) A person appointed and employed as the Immunization Officer must be a physician licensed under the laws of this state to practice medicine.

(4) The Immunization Officer's decision on a request for an exemption to the compulsory immunization requirements of this section may be appealed to the State Health Officer.

(5) The final determination of the State Health Officer is subject to a right of appeal pursuant to the provisions of article five, chapter twenty-nine a of this code.

(i) A physician who provides any person with a false certificate of immunization against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$25 nor more than \$100.

(j) Any person that is not enrolled in the public schools of this State, is not subject to the immunization requirements of this chapter.

(k) The provisions of this section shall not prohibit a private institution from enacting its own immunization requirements."

Delegate Staggers arose to a point of order as to the germaneness of the amendment.

The Speaker ruled that the amendment was not germane to the bill.

There being no further amendments, 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. 876**), 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, Cowles, Fluharty, Higginbotham, Kessinger and Sponaule.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 160) 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. 161, Removing or revising obsolete, outdated, antiquated, inoperative, surplus or superseded provisions of code related to the School Building Authority; on third reading, coming up in regular order, with the right to amend, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 877**), 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: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 161) 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. 162, Removing antiquated, redundant, or expired provisions of the code for the administration of education; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

On motion of Delegate Shott, the bill was amended on page 25, section 6, line 11, by striking out “board of finance” and inserting in lieu thereof “state superintendent”.

On page 31, section three, line six, by striking out “code of the Building Officials and Code Administrators (BOCA)” and inserting in lieu thereof “International Code Council (ICC).”

And,

On page 32, section 3, line 23 by striking out “BOCA” and inserting in lieu thereof “ICC”.

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. 878**), 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: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 162) 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. 163, Removing sections of code relating to administration of education; on third reading, coming up in regular order, with the right to amend, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 879**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: S. Brown.

Absent and Not Voting: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 163) 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. 174, Increasing and promoting school innovation and flexibility; on third reading, coming up in regular order, with the right to amend, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 880**), 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, Cowles, Fluharty, Higginbotham, C. Martin and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 174) 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. 192, Removing certain fees for teaching; on third reading, coming up in regular order, with the right to amend, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 881**), 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: Barrett, Cowles, Fluharty, Higginbotham and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 192) 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. 193, Relating to a statewide school personnel job bank; on third reading, coming up in regular order, with the right to amend, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 882**), 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, Cowles, Fluharty, Higginbotham, Nelson and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 193) passed.

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

At 1:23 p.m., the House of Delegates recessed until 1:45 p.m.

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Afternoon Session

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

H. B. 206, Relating to public education; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

Delegates Summers, C. Thompson, Pethtel, Angelucci, Pushkin, Zukoff, Hicks, Evans, Tomblin, Campbell, Higginbotham, Miller, Westfall, Storch, Linville, Hanna, McGeehan, Mandt, Steele, Criss, Toney, Rowan, Householder, Dean, Espinosa and Rohrbach requested to be excused from voting on H. B. 206 under the provisions of House Rule 49.

The Speaker replied that the Delegates were members of a class of persons possibly to be affected by the passage of the bill and directed the Members to vote.

On motion of Delegate Espinosa, the bill was amended on page 32, section 2, line 100, following the word "statutes", by striking out the word "in" and inserting in lieu thereof the word "if".

On page 46, section 3, line 76, following the word "under", by striking out the reference "§18-5-44" and inserting in lieu thereof the reference "§18-5-45".

On page 56, section 7, line 7, by removing the strikethrough of the subdivision designation (2).

And,

On page 64, section 9, line 58, following the word "deemed", by inserting the words "approval of the application".

Delegate Pushkin moved to amend the bill on page 14, section 12, line 32, after the period, by inserting the following:

"ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.

§18-3-12. Special Community Development School Pilot Program.

(a) The state superintendent shall establish a Special Community Development School Pilot Program to be implemented in ~~a neighborhood of at least five~~ up to three elementary public schools, ~~which shall include at least one elementary and middle school~~ for the duration of five years. The ~~neighborhood of~~ public schools designated by the state superintendent for the pilot shall have significant enrollments of disadvantaged, minority, and underachieving students. The designated ~~neighborhood of~~ public schools under the direction of the local governing board shall work in collaboration with ~~county board and county superintendent,~~ county boards of education, county superintendents, the State Board of Education, the State Superintendent of Schools, institutions of higher education, community organization, principals, teachers, and parents ~~shall work in~~

~~collaboration with higher education, community organizations, Center for Professional Development, local community leaders, affected classroom teachers, affected parents and the state board to develop and implement strategies that could be replicated in other public schools with significant enrollments of disadvantaged, minority, and underachieving students to improve academic achievement. For purposes of this section 'neighborhood' means an area of no more than seven square miles~~

(b) A designated public school shall identify a public higher education teaching institution that will provide it with technical assistance in the development and implementation of detailed comprehensive education reform plan.

(c) The comprehensive education reform plan must be submitted to the county school superintendent and county board of education for review and comment. The plan must also be submitted to the State Superintendent of Schools and State Board of Education for review, comment and approval.

(d) A designated public school shall operate under the governing board appointed by the State Superintendent of Schools which shall consist of the following:

- (1) Two parents of students attending the designated public pilot school;
- (2) Two persons who reside in the community served by the designated public pilot school;
- (3) Two faculty members employed at the designated public pilot school;
- (4) Two persons appointed by the county board of education; and
- (5) The State Superintendent of Schools or designee.

(e) The State Superintendent of Schools shall request, and the Joint Legislative Commission on Education Accountability shall grant, a designated pilot school exemptions and waivers from state and county school polices as necessary: *Provided*, That a designated pilot school may not be granted an exemption from a statute contained in Chapter 18A of this code, or any rules or policies implementing a statute contained in Chapter 18A of this code.

(f) On or before January 1, 2020, and each year thereafter, the state superintendent, county superintendent(s), the chairperson(s) of the local governing board(s) for the schools, and lead community-based organizations shall make status report(s) to the Legislative Oversight Commission on Education Accountability and to the state board. The report may include any recommendations based on the progress of the demonstration pilot project that they consider either necessary for improving the operations of the demonstration project or prudent for improving student achievement in other public schools through replication of successful demonstration school(s) programs."

And,

On pages 39 through 72, by striking out all of Article 5G in its entirety.

Delegate Steele arose to a point of order as to the germaneness of the amendment and whether and amendment was divisible.

The Speaker ruled that the amendment was germane to the purpose of the bill and the amendment was also divisible.

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. 883**), and there were—yeas 42, nays 55, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Barrett, Cowles and Sponaugle.

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

On motion of Delegate Rowan, the bill was amended on page 52, section 5, line forty-eight, by striking out subsection (e) in its entirety.

On motion of Delegate Espinosa, the bill was amended on page 35, following line 158, by striking out section 3 from the bill and inserting in lieu thereof a new section 3 to read as follows:

§18-5A-3. County board authority to designate innovation schools; local school improvement council proposals of alternatives to operation of school; process for requesting waivers of rules, policies, interpretations and statutes to implement alternatives. Authority and procedures for local school improvement councils to request waivers of certain rules, policies, and interpretations.

(a) The intent of this section is to establish a mechanism which allows local school level initiatives to be designed and implemented to encourage and facilitate the design and implementation of innovative initiatives by local schools, working through their local school improvement councils, that meet local school the school's needs and circumstances. In accordance with this intent, a local school improvement council established under the provisions of this article may A school level initiative may propose alternatives to the operation of the public school which alternatives will that will enable the school to better meet or exceed the high quality standards established by the state board, and will increase administrative efficiency, enhance the delivery of instructional programs, promote student engagement in the learning process, promote business partnerships, promote parent and community involvement at the school, in the local school system or improve the educational performance of the school generally. In accordance with this intent, a local school improvement council established under the provisions of §18-5A-2 of this code may submit to its county board proposed alternatives to the operation of the public school in accordance with this section. If the county board approves the proposal in accordance with this section, it may designate the school as an innovation school and may provide funding to support implementation of the proposal, if necessary.

(b) The proposal of the council An alternative proposed by a local school improvement council shall set forth:

(1) The objective or objectives to be accomplished under the proposal;

(2) How the accomplishment of such objective or objectives will meet or exceed the standards established by the state board;

(3) The indicators upon which the meeting of such standards should be judged; and

(4) A projection of any funds to be saved by the proposal and how such funds will be reallocated within the school, or any costs associated with the proposal and proposed funding sources; and

(5) ~~The alternatives proposed by the council may include matters which require the waiver of Any policies or rules promulgated by the state or county board, and any state superintendent interpretations and any state statutes for which a waiver will be required for the proposed alternative to be implemented; and~~ *Provided*, That such request for waiver be submitted to the appropriate board adopting said rule or policy and that board may approve the waiver.

(c) For an alternative to be proposed, at least two thirds of the members of the local school improvement council must vote in favor of the proposal. If the alternative to be proposed includes the request for a waiver of policies or rules promulgated by the state or county board, state superintendent interpretations or state statutes affecting employees, then prior to the proposal of the alternative, a majority of the local affected employee group must agree.

(d) A local school improvement council shall submit its proposed alternative to the county board. The county board shall acknowledge receipt of the proposal and promptly review the proposed alternative. The county board may request additional information and clarifications from the local school improvement council regarding the proposed alternative. The county board shall approve or disapprove the proposal and return it to the council with a statement of the reasons for the action taken, subject to the following:

(1) If an alternative proposed by the local school improvement council requires the waiver of any policies or rules promulgated by the county board, approval of the proposal by the county board constitutes a grant of the waiver;

(2) If an alternative proposed by the local school improvement council requires the waiver of any policies or rules promulgated by the state board and the county board approves the proposal except that a waiver by the state board is required, the county board shall forward the approved proposal to the state board for final determination. The state board shall acknowledge receipt of the proposal and promptly review the proposed alternative in consultation with the county board or their agents and, in its discretion, approve implementation of the alternative or reply to the county board and council within a reasonable time as to its reasons for not approving the proposed alternative. Approval of the proposal by the state board constitutes a grant of the waiver;

(3) If an alternative proposed by the local school improvement council requires the waiver of a state superintendent's interpretation and the county board approves the proposal except that a waiver by the state superintendent is required, the county board shall forward the approved proposal to the state superintendent for final determination. The state superintendent shall acknowledge receipt of the proposal and promptly review the proposed alternative in consultation with the county board or their agents and, in his or her discretion, approve implementation of the alternative or reply to the county board and council within a reasonable time as to its reasons for not approving the proposed alternative. Approval of the proposal by the state superintendent constitutes a grant of the waiver;

(4) If an alternative proposed by the local school improvement council requires the waiver of a state statute and the county board approves the proposal except that a waiver of the statute is required, the county board shall forward the approved proposal to the Legislative Oversight Commission on Education Accountability. The commission shall acknowledge receipt of the proposal and promptly review the proposed alternative in consultation with the county board or their agents

and determine whether a recommendation should be made for an Act of the Legislature to waive the statute to permit implementation of the proposed alternative;

(5) If an alternative that requires a waiver is proposed by more than one local school improvement council in the county and the county board approves, the county board may forward a consolidated proposal requesting the waiver to the appropriate bodies as provided in this subsection; and

(6) When an alternative to the operation of a school is approved, the county board shall establish a process for evaluation of the operation of the alternative. Approval for the operation of the alternative may be continued or revoked at any time based on the results and findings of the evaluation.

~~When a county board does not act within two months after receiving a request for waiver of a county board policy or rule or disapproves such a request, the local school improvement council may seek an advisory opinion from the state board regarding the waiver request. The county board shall furnish the state board with copies of all waiver requests together with their response thereto. *Provided, however,* That when a local school improvement council votes to waive a state superintendent's interpretation, the state superintendent need only be notified that the local council intends to waive the state superintendent's interpretation: *Provided further,* That notwithstanding any other provisions of the law to the contrary, council is not prohibited from permitting off-site classrooms to be developed in conjunction with local businesses if those sites have met the requirements established by the local board and if sites are located off campus. For an alternative to be proposed, at least two thirds of the members must vote in favor thereof: *And provided further,* That if the alternative to be proposed relates to a waiver of policies or rules promulgated by the state or county board and state superintendent interpretations affecting employees, then prior to the proposal of the alternative, a majority of the local affected employee group involved must agree.~~

~~A council may also submit a written statement, with supporting reasons, to the Legislative Oversight commission on education accountability recommending a waiver of a statute or legislative rule, which the commission shall review and determine whether a recommendation should be made to the Legislature to waive such statute or rule.~~

~~When a council decides to propose an alternative, it shall forward a copy of the proposal to the state board and the affected local board. The state board shall acknowledge receipt of the proposed alternative, promptly review the proposed alternative in consultation with the county board or their agents and, in its discretion, approve implementation of the alternative or reply to the council within a reasonable time as to its reasons for not approving the proposed alternative. If the state board approves a proposed alternative, the state board shall provide appropriate notice to the local school improvement council and the county board and shall establish a process for evaluation of the operation of the alternative. Approval for the operation of the alternative may be continued or revoked at any time based on the results and findings of the evaluation.~~

(e) Notwithstanding any other provisions of the law to the contrary, a local school improvement council is not prohibited from permitting off-site classrooms to be developed in conjunction with local businesses if those sites meet the requirements established by the county board for sites that are located off campus.

(f) The state board shall submit a report to the Legislative Oversight commission on education accountability and the Governor on September 1, of each year summarizing the proposed alternatives received, approved or rejected, continued or revoked during the preceding school year and the results and findings of the evaluations. The report shall specifically identify all policy, rule,

and interpretation waiver requests including those requests made to county boards by local school improvement councils received during the preceding year and the disposition of each.”

An amendment offered by Delegate J. Kelly, was reported by the Clerk.

Whereupon,

Delegate J. Kelly obtained unanimous consent that the amendment be withdrawn.

Delegates Rowe and Hansen moved to amend the bill on page 69, section 11, line 30, by striking out the words “school enrollment decisions” and inserting in lieu thereof the word “schools”.

Delegate McGeehan was debating the amendment and moved the previous question.

Delegate Caputo rose to a point of order regarding a member not being permitted to move the previous question if that member had spoken on the question.

The Speaker ruled that the motion by Delegate McGeehan was not in order.

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. 884**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bibby, Fast, Malcolm and Porterfield.

Absent and Not Voting: Barrett, Cowles and Sponaule.

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

An amendment offered by Delegates Hornbuckle, Skaff and Zukoff, was reported by the Clerk on page 12, line 46, following the period at the end of section 2, by inserting the following:

“CHAPTER 11. TAXATION.

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-9g. EXEMPTION FOR CERTAIN SCHOOL SUPPLIES, SCHOOL INSTRUCTIONAL MATERIALS, LAPTOP AND TABLET COMPUTERS, AND SPORTS EQUIPMENT.

(a) The items identified in subdivisions (1) through (5) of this subsection are exempt from the tax imposed by this article and §11-15A-1 et seq. of this code, if the sale or purchase occurs on the first Sunday of August, or the previous Friday and Saturday, or the following Monday. The items exempt are:

(1) An item of clothing, the price of which is \$125 or less;

(2) An item of school supplies. the price of which is \$50 or less;

(3) An item of school instructional material, the price of which is \$20 or less;

(4) Laptop and tablet computers, not purchased for use in a trade or business, the price of which is \$500 or less; and

(5) Sports equipment, not purchased for use in a trade or business, the price of which is \$150 or less.

(b) For purposes of this section:

(1) 'Clothing' means all human wearing apparel suitable for general use. 'Clothing' includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; diapers, children and adult, including disposable diapers; ear muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel. 'Clothing' does not include items purchased for use in a trade or business; clothing accessories or equipment; protective equipment; sports or recreational equipment; belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; and sewing materials that become part of 'clothing' including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers.

(2) 'School supplies' means items commonly used by a student in a course of study. 'School supplies' includes only the following items: Binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic, and manila; glue, paste, and paste sticks; highlighters; index cards; index card boxes; legal pads; lunch boxes; markers; notebooks; paper, loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers; scissors; and writing tablets. 'School supplies' does not include any item purchased for use in a trade or business.

(3) 'School instructional material' means written material commonly used by a student in a course of study as a reference and to learn the subject being taught. 'School instructional material' includes only the following items: reference books, reference maps and globes, textbooks, and workbooks. 'School instructional material' does not include any material purchased for use in a trade or business.

(c) The tax commissioner shall promulgate emergency rules and shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to establish eligibility requirements for the exemptions established by this section."

On motion of Delegate Hornbuckle, the amendment was amended on page 1, §11-15-9g (a), by inserting, "Effective July 1, 2021".

Delegate Criss arose to a point of order regarding obligating future legislatures, to which the Speaker replied that the amendment was in order.

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

Nays: Azinger, Cooper, Ellington, Jennings, Malcolm, Phillips, Porterfield and Waxman.

Absent and Not Voting: Barrett, Cowles and Sponaugle.

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

Delegate Fleischauer asked unanimous consent that the House stand at ease, which consent was not granted, objection being heard.

Delegate Fleischauer then so moved.

On the question of the House standing at ease, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 886**), and there were—yeas 41, nays 55, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Skaff, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Barrett, Cowles, Porterfield and Sponaugle.

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

At the request of Delegate Summers, and by unanimous consent, further consideration of the amendment was moved to the foot all amendments.

Delegates Hornbuckle and Pushkin moved to amend the bill on page 128, section 10, following the period on line 7, by inserting the following:

“ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-9. Pilot program for expansion of school-based mental health and school-based diversion.

(a) As used in this section:

‘Expanded school mental health framework’ or ‘ESMHF’ means any program authorized and created under the collaboration between the West Virginia Department of Education (WVDE) and the West Virginia Bureau for Behavioral Health and Health Facilities of the Department of Health and Human Resources (DHHR) that is jointly defined by WVDE and DHHR as including school-wide prevention, targeted screening, and early intervention, as well as intensive treatment for students with the most serious challenges;

‘Mental and behavioral health services’ means any individualized or group program designed to provide pharmacological, therapeutic, emotional, behavioral health supports or any combination thereof;

‘School-Based Health Center’ means a clinic or center providing comprehensive health services on or near school grounds that is operated by a qualified health care organization; and

'Tier of need' means the level of services required in mental or behavioral health intervention where 'Tier I' refers to universal services, 'Tier II' refers to targeted services, and 'Tier III' refers to intensive services.

(b) The department of education shall develop a three-year pilot program to establish school-based mental and behavioral health services for students and families as an alternative to the disciplinary measures authorized in §18A-5-1 of this code.

(c) The pilot will be available to schools who have implemented:

(1) A school-based health center providing mental and behavioral health services; or

(2) An expanded school mental health framework.

(d) The pilot shall require that participating schools:

(1) Through direct employment or contractual relationship, provide mental or behavioral health services, or both.

(2) Through direct employment or contractual relationship, have services available for all tiers of need.

(3) Authorize employees or contractors who provide mental or behavioral health services to:

(A) Receive referrals for students who violate the disciplinary code;

(B) Receive referrals from judges or magistrates for treatment as part of a diversion or disposition;

(C) Provide a mental or behavioral health assessment to the student;

(D) Provide ongoing services to the student if merited by the assessment;

(E) Contact the family and household members of the students to: (i) Obtain additional information about the student's case; or (ii) offer services to family or household members;

(F) Provide services to the student's family members and household members;

(G) Provide services to community members: *Provided*, That all students and student family members can be provided services first;

(H) Bill and collect payment for services rendered from the insurance of families and community members, from the school, in the case of referral for behavior, or from DHHR, in the case of court order.

(4) Provide notice of the pilot in the school and give parents, guardians or custodians the opportunity to opt out of the diversion program: *Provided*, That any student referred to the program by court order may not opt out of the program. The notification shall state the relationship between the school and the providers. The notification shall state that instead of disciplinary measures, students will be referred for a mental and behavioral health evaluation and may be required to participate in treatment. The notification shall inform parents, guardians, or custodians that failure to comply with the assessment or to follow up with treatment may result in disciplinary action. The notification shall inform parents, guardians, and custodians that services may be made available to family members and individuals in the student's household. The notification shall provide parents

and guardians with the opportunity to opt out of the program and explain that students who opt out will be subject to discipline under the school's existing rules. The notification shall explain that treatment records will remain confidential between the student and the counselor, except:

(A) The parent or guardian may request the treatment records: *Provided*, That the provider may, at their judgment, contact parents or guardians as they deem appropriate to best serve the child: *Provided, however*, That the provider is subject to the mandatory reporting requirements of §49-2-803 of this code, and if such a report is necessary the provider may withhold relevant records from a parent or guardian that is suspected of the conduct causing the mandatory report;

(B) The records shall be available to other medical providers treating the student;

(C) The records may be provided to the courts; and

(D) That Child Protective Services or law enforcement, or both, may be contacted, but such circumstances will be limited to active situations of abuse or neglect;

(5) Authorize and require data collection of:

(A) The number of students who opt out of the deferral program;

(B) The number of students who are referred to services;

(C) The number of students who undergo initial evaluations;

(D) The length of time between a referral and an initial evaluation;

(E) The number of students referred for additional services: (i) By tier of need; (ii) by type of service offered; and (iii) by location of service offered;

(F) The number of students who entered services: (i) By tier of need; (ii) by type of service offered; and (iii) by location of service offered;

(G) The length of time students stayed in services;

(H) The number of students who did not successfully complete the program;

(I) The number of students who did not enter or complete a program and subsequently were punished under §18A-5-1 of this code;

(J) The number of students who did not enter or complete a program and subsequently had a petition filed in court;

(K) The number of students who successfully completed the program;

(L) The number of students who completed the program and subsequently were punished under §18A-5-1 of this code;

(M) The number of students who completed the program and subsequently had a petition filed in court;

(N) The number of family members who were offered services;

(O) The number of family members who took part in offered services;

(P) The number of community members who were offered services; and

(Q) The number of community members who took part in offered services.

(6) For each category of data collection required by subdivision (5) of this subsection, the data shall be broken down by: (A) age; (B) grade-level; (C) race; (D) sex and gender identity (if it differs from biological sex); (E) special education status; and (F) academic achievement.

(e) This section may not be construed to require additional expenditures by the state.

(f) West Virginia Department of Education shall promulgate rules for legislative approval pursuant to §29A-3B-1 et seq. of this code and the Department of Health and Human Resources shall propose rules for legislative approval pursuant to §29A-3-1 et seq. of this code in order to effectuate the purpose of this section. The pilot program authorized by this section may not be implemented until the legislative rules have been approved by the Legislature.”

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. 887**), and there were—yeas 41, nays 56, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Skaff, Staggers, Swartzmiller, Sypolt, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Barrett, Cowles and Sponaugle.

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

An amendment offered by Delegate Fleischauer, was reported by the Clerk.

Whereupon,

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

On motion of Delegate Espinosa bill was amended on page 12, section 24, line 5, after the word “County;”, by striking out the words “to allow for a total of 600 cadets per year” and inserting in lieu thereof the following: “to accept cadets up to its maximum capacity;”.

An amendment offered by Delegate Espinosa, was reported by the Clerk.

Whereupon,

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

An amendment offered by Delegate Espinosa, was reported by the Clerk, on page 108, section 7a, line 83 after the word "policy", by adding the following: "which shall include, at a minimum, seniority and appropriate certification, licensure, or both."

On page 108, section 7a, line 87, after the word "policy", by inserting the following: "in addition to seniority and appropriate certification, licensure or both",

On page 109, section 7a, lines 89-90, by striking out paragraphs (A) and (B) in their entirety,

On page 109, section 7a, after line 101, by striking out paragraph (I) in its entirety,

And,

By relettering the remaining paragraphs.

In the absence of objection, further consideration of the amendment offered by Delegate Espinosa and consideration of an amendment filed by Delegates Storch, Longstreth, Dean, C. Thompson and Zukoff was moved to the foot all amendments.

On motion of Delegate Espinosa, the bill was amended on page 39, following line 110, by inserting a new section to the bill to read as follows:

"§18-5A-5. Public school faculty senates established; election of officers; powers and duties.

(a) There is established at every public school in this state a faculty senate which is comprised of all permanent, full-time professional educators employed at the school who shall all be voting members. 'Professional educators', as used in this section, means 'professional educators' as defined in chapter eighteen-a of this code. A quorum of more than one half of the voting members of the faculty shall be present at any meeting of the faculty senate at which official business is conducted. Prior to the beginning of the instructional term each year, but within the employment term, the principal shall convene a meeting of the faculty senate to elect a chair, vice chair and secretary and discuss matters relevant to the beginning of the school year. The vice chair shall preside at meetings when the chair is absent. Meetings of the faculty senate shall be held during the times provided in accordance with subdivision (12), subsection (b) of this section as determined by the faculty senate. Emergency meetings may be held during noninstructional time at the call of the chair or a majority of the voting members by petition submitted to the chair and vice chair. An agenda of matters to be considered at a scheduled meeting of the faculty senate shall be available to the members at least two employment days prior to the meeting. For emergency meetings the agenda shall be available as soon as possible prior to the meeting. The chair of the faculty senate may appoint such committees as may be desirable to study and submit recommendations to the full faculty senate, but the acts of the faculty senate shall be voted upon by the full body.

(b) In addition to any other powers and duties conferred by law, or authorized by policies adopted by the state or county board or bylaws which may be adopted by the faculty senate not inconsistent with law, the powers and duties listed in this subsection are specifically reserved for the faculty senate. The intent of these provisions is neither to restrict nor to require the activities of every faculty senate to the enumerated items except as otherwise stated. Each faculty senate shall organize its activities as it considers most effective and efficient based on school size, departmental structure and other relevant factors.

(1) Each faculty senate shall control funds allocated to the school from legislative appropriations pursuant to section nine, article nine-a of this chapter. From those funds, each classroom teacher and librarian shall be allotted ~~\$100~~ \$300 for expenditure during the instructional year for academic

materials, supplies or equipment which, in the judgment of the teacher or librarian, will assist him or her in providing instruction in his or her assigned academic subjects or shall be returned to the faculty senate: *Provided*, That nothing contained herein prohibits the funds from being used for programs and materials that, in the opinion of the teacher, enhance student behavior, increase academic achievement, improve self-esteem and address the problems of students at risk. The remainder of funds shall be expended for academic materials, supplies or equipment in accordance with a budget approved by the faculty senate. Notwithstanding any other provisions of the law to the contrary, funds not expended in one school year are available for expenditure in the next school year: *Provided, however*, That the amount of county funds budgeted in a fiscal year may not be reduced throughout the year as a result of the faculty appropriations in the same fiscal year for such materials, supplies and equipment. Accounts shall be maintained of the allocations and expenditures of such funds for the purpose of financial audit. Academic materials, supplies or equipment shall be interpreted broadly, but does not include materials, supplies or equipment which will be used in or connected with interscholastic athletic events.

(2) A faculty senate may establish a process for members to interview or otherwise obtain information regarding applicants for classroom teaching vacancies that will enable the faculty senate to submit recommendations regarding employment to the principal. To facilitate the establishment of a process that is timely, effective, consistent among schools and counties, and designed to avoid litigation or grievance, the state board shall promulgate a rule pursuant to article three-b, chapter twenty-nine-a of this code to implement the provisions of this subdivision. The rule may include the following:

(A) A process or alternative processes that a faculty senate may adopt;

(B) If determined necessary, a requirement and procedure for training for principals and faculty senate members or their designees who may participate in interviews and provisions that may provide for the compensation based on the appropriate daily rate of a classroom teacher who directly participates in the training for periods beyond his or her individual contract;

(C) Timelines that will assure the timely completion of the recommendation or the forfeiture of the right to make a recommendation upon the failure to complete a recommendation within a reasonable time;

(D) The authorization of the faculty senate to delegate the process for making a recommendation to a committee of no less than three members of the faculty senate; and

(E) Such other provisions as the state board determines are necessary or beneficial for the process to be established by the faculty senate.

(3) A faculty senate may nominate teachers for recognition as outstanding teachers under state and local teacher recognition programs and other personnel at the school, including parents, for recognition under other appropriate recognition programs and may establish such programs for operation at the school.

(4) A faculty senate may submit recommendations to the principal regarding the assignment scheduling of secretaries, clerks, aides and paraprofessionals at the school.

(5) A faculty senate may submit recommendations to the principal regarding establishment of the master curriculum schedule for the next ensuing school year.

(6) A faculty senate may establish a process for the review and comment on sabbatical leave requests submitted by employees at the school pursuant to section eleven, article two of this chapter.

(7) Each faculty senate shall elect three faculty representatives to the local school improvement council established pursuant to section two of this article.

(8) Each faculty senate may nominate a member for election to the county staff development council pursuant to section eight, article three, chapter eighteen-a of this code.

(9) Each faculty senate shall have an opportunity to make recommendations on the selection of faculty to serve as mentors for beginning teachers under beginning teacher internship programs at the school.

(10) A faculty senate may solicit, accept and expend any grants, gifts, bequests, donations and any other funds made available to the faculty senate: *Provided*, That the faculty senate shall select a member who has the duty of maintaining a record of all funds received and expended by the faculty senate, which record shall be kept in the school office and is subject to normal auditing procedures.

(11) Any faculty senate may review the evaluation procedure as conducted in their school to ascertain whether the evaluations were conducted in accordance with the written system required pursuant to section twelve, article two, chapter eighteen-a of this code or pursuant to section two, article three-c, chapter eighteen-a of this code, as applicable, and the general intent of this Legislature regarding meaningful performance evaluations of school personnel. If a majority of members of the faculty senate determine that such evaluations were not so conducted, they shall submit a report in writing to the State Board of Education: *Provided*, That nothing herein creates any new right of access to or review of any individual's evaluations.

(12) A local board shall provide to each faculty senate at least six two-hour blocks of time for faculty senate meetings with at least one two-hour block of time scheduled in the first month of the employment term, one two-hour block of time scheduled in the last month of the employment term and at least one two-hour block of time scheduled in each of the months of October, December, February and April. A faculty senate may meet for an unlimited block of time during noninstructional days to discuss and plan strategies to improve student instruction and to conduct other faculty senate business. A faculty senate meeting scheduled on a noninstructional day shall be considered as part of the purpose for which the noninstructional day is scheduled. This time may be used and determined at the local school level and includes, but is not limited to, faculty senate meetings.

(13) Each faculty senate shall develop a strategic plan to manage the integration of special needs students into the regular classroom at their respective schools and submit the strategic plan to the superintendent of the county board periodically pursuant to guidelines developed by the State Department of Education. Each faculty senate shall encourage the participation of local school improvement councils, parents and the community at large in developing the strategic plan for each school.

Each strategic plan developed by the faculty senate shall include at least: (A) A mission statement; (B) goals; (C) needs; (D) objectives and activities to implement plans relating to each goal; (E) work in progress to implement the strategic plan; (F) guidelines for placing additional staff into integrated classrooms to meet the needs of exceptional needs students without diminishing the services rendered to the other students in integrated classrooms; (G) guidelines for implementation of collaborative planning and instruction; and (H) training for all regular classroom teachers who serve students with exceptional needs in integrated classrooms.

And,

On page 92, section §18-9A-9, lines 35 through 48, by striking subdivision (4) from the bill and inserting in lieu thereof a new subdivision (4) to read as follows:

“(4) For academic materials, supplies and equipment for use in instructional programs, ~~\$200~~ \$400 multiplied by the number of professional instructional personnel and professional student support personnel employed in the schools of the county. Distribution is made to each county for allocation to the faculty senate of each school in the county on the basis of ~~\$200~~ \$400 per professional instructional personnel and professional student support personnel employed at the school. ‘Faculty Senate’ means a faculty senate created pursuant to ~~section five, article five-a of this chapter~~ §18-5A-5 of this code. Decisions for the expenditure of such funds are made at the school level by the faculty senate in accordance with the provisions of said section five, article five-a and may not be used to supplant the current expense expenditures of the county. Beginning on September 1, 1994, and every September thereafter, county boards shall forward to each school for the use by faculty senates the appropriation specified in this section. Each school shall be responsible for keeping accurate records of expenditures.”

Delegate Dean moved to amend the bill on page 90, section 8, lines 35-36, after the word “for”, by striking out the words “four and seventy hundredths” and inserting in lieu thereof the word “five”.

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. 888**), and there were—yeas 49, nays 48, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Anderson, Atkinson, Azinger, Bibby, Butler, Cadle, Capito, Criss, Ellington, Espinosa, Fast, Foster, Graves, Hamrick, Hanna, Hardy, Harshbarger, Higginbotham, Hill, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Kump, Linville, Malcolm, Mandt, C. Martin, P. Martin, Maynard, McGeehan, Nelson, Pack, Phillips, Porterfield, Queen, Shott, Steele, Summers, Waxman, Wilson, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Barrett, Cowles and Sponaugle.

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

Delegates Campbell, Longstreth, C. Thompson and Evans moved to amend the bill on page 112, section 7a, lines 181 through 184, following the period on line 181, by striking out the sentence that reads: “At their discretion, boards may ~~post~~ repost an opening for a classroom teacher ~~one additional time~~ after the first posting in order to attract more qualified applicants ~~only if fewer than three individuals apply during the first posting~~ subject to the following:” and inserting in lieu thereof, current law, which reads: “At their discretion, boards may post an opening for a classroom teacher one additional time after the first posting in order to attract more qualified applicants only if fewer than three individuals apply during the first posting subject to the following:”.

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. 889**), and there were—yeas 42, nays 55, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Angelucci, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Staggers, Storch, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Westfall, Williams and Zukoff.

Absent and Not Voting: Barrett, Cowles and Sponaugle.

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

Delegate C. Thompson moved to amend the bill on page 77, section 3, line 123, following the period, by inserting a new section to read as follows:

“ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-26x. Supplemental benefits for retired teachers and service personnel.

(a) Beginning on the January 1, 2020, any retirant who is receiving an annuity on the effective date of this section shall receive a supplemental cost-of-living benefit in an increased annual amount of \$2,000.

(b) Prior to January 1, 2020, the executive secretary of the board shall provide to the Legislature information as to the number of retirants receiving an annuity on the effective date of this section, the amounts of the annuities they receive, the amount of funds necessary to provide cost-of-living increases to such annuitants.”

Delegates Anderson, Evans, Pethtel and Rowan requested to be excused from voting on the amendment to H. B. 206 under the provisions of House Rule 49.

The Speaker replied that the Delegates were members of a class of persons possibly to be affected by the passage of the bill and directed the Members to vote.

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. 890**), and there were—yeas 43, nays 53, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Skaff, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Barrett, Cowles, Sponaugle and Wilson.

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

On motion of Delegate Hill, the bill was amended on page 17, line 2, by striking out the word “shall” and inserting in lieu thereof the word “may”.

An amendment offered by Delegates Dean and Paynter, was reported by the Clerk.

Whereupon,

Delegate Dean obtained unanimous consent that the amendment be withdrawn.

Delegates Dean and Paynter moved to amend the bill on page 54, section 7, line 42, by inserting a new subsection, designated subsection (d), to read as follows:

“(d) A public charter school may not be authorized under this article until a local option election is held in the county in which the public charter school will be located and a majority of the voters of that county voting on the question approve authorization of the public charter school.

(1) A local option election shall be held in conjunction with the next primary or general election scheduled more than 90 days following receipt by the county commission of a written notice from an authorizer requesting that the question be placed on the ballot.

(2) The county commission of the county in which the public charter school will be located shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code and the publication area for the publication shall be the county in which the election is to be held. The date of the last publication of the notice shall fall on a date at least 30 days preceding the day of the election.

(3) On the local option election ballot shall be printed the following:

Shall a public charter school be permitted in [Name of County] County ?

[] Yes [] No (Place a cross mark in the square next to your choice.)”

And,

Renumbering the remaining subsections.

Delegate Graves moved the previous question.

On this question, the yeas and nays were taken (**Roll No. 891**), and there were—yeas 51, nays 45, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Anderson, Angelucci, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rowe, Staggers, Storch, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Westfall, Williams and Zukoff.

Absent and Not Voting: Barrett, Cowles, Skaff and Sponaule.

So, a majority of the members present and voting having voted in the affirmative, the previous question was ordered.

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. 892**), and there were—yeas 42, nays 55, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero,

Rohrbach, Rowe, Skaff, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Barrett, Cowles and Sponaugle.

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

Delegate Robinson asked unanimous consent to address the House, which consent was not granted, objection being heard.

Delegate Robinson then so moved, and on this motion, the yeas and nays were taken (**Roll No. 893**), and there were—yeas 49, nays 48, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Atkinson, Azinger, Bibby, Butler, Cadle, Cooper, Criss, Dean, Ellington, Espinosa, Fast, Foster, Graves, Hamrick, Hanna, Hardy, Harshbarger, Higginbotham, Hill, Hott, Householder, Howell, D. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Kump, Linville, Little, Malcolm, Mandt, C.R. Martin, P. Martin, Pack, Phillips, Porterfield, Rohrbach, Rowan, Shott, Steele, Storch, Summers, Waxman, Westfall, Wilson, Worrell, and Hanshaw (Mr. Speaker).

Absent and Not Voting: Barrett, Cowles and Sponaugle.

So, two thirds of the members present and voting not having voted in the affirmative, the motion did not prevail.

Delegates Dean and Paynter moved to amend the bill on page 40, section 1, lines 34, after the word “schools”, by inserting a new subsection, designated subsection (h), to read as follows:

“(h) A public charter school may not be authorized by a county board under this article until all county board seats held July 1, 2019 have been on the ballot for re-election during a regularly scheduled local election.”

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. 894**), and there were—yeas 45, nays 52, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowan, Rowe, Skaff, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Barrett, Cowles and Sponaugle.

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

Delegates Zukoff and Skaff moved to amend the bill on page 26, section 18a, line 59, following the period, by inserting the following:

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

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

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

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

Delegate Porterfield moved the previous question.

On this question, the yeas and nays were taken (**Roll No. 895**), and there were—yeas 19, nays 78, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Azinger, Bibby, Cadle, Cooper, Fast, Fluharty, Graves, Hardy, Higginbotham, Hornbuckle, D. Jeffries, Kump, Malcolm, C. Martin, P. Martin, Porterfield, Rodighiero, Summers and Wilson.

Absent and Not Voting: Barrett, Cowles and Sponaugle.

So, a majority of the members present and voting not having voted in the affirmative, the motion for the previous question was rejected.

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. 896**), 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: Barrett, Cowles, McGeehan, Porterfield and Sponaugle.

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

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

Whereupon,

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

Delegate Espinosa moved to amend the bill on page 40, section 1, lines 33-34, by striking out subsection (g) in its entirety and inserting in lieu thereof a new subsection (g) as follows:

“(g) The total number of public charter schools authorized and in operation under an approved contract in this state shall be limited to 3 pilot public charter schools until July 1, 2023. The State Board shall report to the Legislative Oversight Commission on Education Accountability by November 1, 2022, and every 3 years thereafter, on the status of the state’s public charter schools. LOCEA shall report its findings and recommendations, if any, to the Legislature during its next Regular Session. Beginning July 1, 2023, and every 3 years thereafter, an additional 3 public charter schools may be authorized and in operation under an approved contract in this state. The School for the Deaf and

Blind and a Mountaineer Challenge Academy, if converted to public charter schools, shall not count towards the limitation established by this subsection.”

Delegate Espinosa then asked and obtained unanimous consent to be permitted to offer a reformed amendment, to conform with action taken earlier this day, on page 40, section 1, lines 33-34, by striking out subsection (g) in its entirety and inserting in lieu thereof a new subsection (g) as follows:

“(g) The total number of public charter schools authorized and in operation under an approved contract in this state shall be limited to 3 pilot public charter schools until July 1, 2023. The State Board shall report to the Legislative Oversight Commission on Education Accountability by November 1, 2022, and every 3 years thereafter, on the status of the state’s public charter schools. LOCEA shall report its findings and recommendations, if any, to the Legislature during its next Regular Session. Beginning July 1, 2023, and every 3 years thereafter, an additional 3 public charter schools may be authorized and in operation under an approved contract in this state. The Mountaineer Challenge Academy, if converted to a public charter school, shall not count towards the limitation established by this subsection.”

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. 897**), and there were—yeas 51, nays 44, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Angelucci, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowan, Rowe, Skaff, Staggers, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Barrett, Cowles, Porterfield, Sponaugle and Swartzmiller.

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

An amendment offered by Delegate Espinosa was reported by the Clerk, as follows:

On page 85, following line 107, by striking out section 2 from the bill and inserting in lieu thereof a new section 2 to read as follows:

“§18-9A-2. Definitions.

For the purpose of this article:

- (a) ‘State board’ means the West Virginia Board of Education.
- (b) ‘County board’ or ‘board’ means a county board of education.
- (c) ‘Professional salaries’ means the state legally mandated salaries of the professional educators as provided in §18A-4-1 et seq. of this code.
- (d) ‘Professional educator’ shall be synonymous with and shall have the same meaning as ‘teacher’ as defined in §18-1-1 of this code, and includes technology integration specialists.

(e) 'Professional instructional personnel' means a professional educator whose regular duty is as that of a classroom teacher, librarian, attendance director, or school psychologist. A professional educator having both instructional and administrative or other duties shall be included as professional instructional personnel for that ratio of the school day for which he or she is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance, or psychologist duties.

(f) 'Professional student support personnel' means a 'teacher' as defined in §18-1-1 of this code who is assigned and serves on a regular full-time basis as a counselor or as a school nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses. Professional student support personnel shall also include professional personnel providing direct social and emotional support services to students, as well as professional personnel addressing chronic absenteeism. For all purposes except for the determination of the allowance for professional educators pursuant to §18-9A-4 of this code, professional student support personnel are professional educators.

(g) 'Service personnel salaries' means the state legally mandated salaries for service personnel as provided in §18A-4-8a of this code.

(h) 'Service personnel' means all personnel as provided in §18A-4-8 of this code. For the purpose of computations under this article of ratios of service personnel to net enrollment, a service employee shall be counted as that number found by dividing his or her number of employment days in a fiscal year by 200: Provided, That the computation for any service person employed for three and one-half hours or fewer per day as provided in §18A-4-8a of this code shall be calculated as one-half an employment day.

(i) 'Net enrollment' means the number of pupils enrolled in special education programs, kindergarten programs, and grades one to 12, inclusive, of the public schools of the county. Net enrollment further shall include:

(1) Adults enrolled in ~~regular secondary~~ vocational programs, ~~subject to the following:~~ *Provided*, ~~That (A)~~ net enrollment includes no more than 2,500 of those adults counted on the basis of full-time equivalency and apportioned annually to each county to support Advanced Career Education programs, as provided in §18-2E-11 of this code, in proportion to the adults participating in ~~regular secondary~~ vocational programs ~~in the prior year~~ counted on the basis of full-time equivalency: *Provided further*, That beginning with the 2021 fiscal year and every year thereafter, a career technical education center may only receive the funding for enrollment as authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this code; ~~and~~

~~(B) Net enrollment does not include any adult charged tuition or special fees beyond that required of the regular secondary vocational student;~~

(2) Students enrolled in early childhood education programs as provided in §18-5-44 of this code, counted on the basis of full-time equivalency;

(3) A pupil may not be counted more than once by reason of transfer within the county or from another county within the state, and a pupil may not be counted who attends school in this state from another state;

(4) The enrollment shall be modified to the equivalent of the instructional term and in accordance with the eligibility requirements and rules established by the state board; and

(5) For the purposes of determining the county's basic foundation program only, for any county whose net enrollment as determined under all other provisions of this definition is less than 1,400,

the net enrollment of the county shall be increased by an amount to be determined in accordance with the following:

(A) Divide the state's lowest county student population density by the county's actual student population density;

(B) Multiply the amount derived from the calculation in §18-9A-2(i)(5)(A) of this code by the difference between 1,400 and the county's actual net enrollment;

(C) Add the amount derived from the calculation in paragraph (B) of this subdivision to the county's actual net enrollment and increase that total amount by 10 percent; and

~~(C) (D) If the increase in net enrollment as determined under this subdivision plus the county's net enrollment as determined under all other provisions of this subsection is greater than 1,400, the increase in calculated net enrollment shall be reduced so that the total does not exceed to 1,400; and~~

~~(D) (E) During the 2008-2009 interim period and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review this subdivision to determine whether or not these provisions properly address the needs of counties with low enrollment and a sparse population density.~~

(j) 'Sparse-density county' means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of 'net enrollment', to the square miles of the county is less than five.

(k) "Low-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of "net enrollment", to the square miles of the county is equal to or greater than five but less than 10.

(l) 'Medium-density county' means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of 'net enrollment', to the square miles of the county is equal to or greater than 10 but less than 20.

(m) 'High-density county' means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of 'net enrollment', to the square miles of the county is equal to or greater than 20.

(n) 'Levies for general current expense purposes' means ~~90~~ 85 percent of the levy rate for county boards of education calculated or set by the Legislature pursuant to §11-8-6f of this code.

(o) 'Technology integration specialist' means a professional educator who has expertise in the technology field and is assigned as a resource teacher to provide information and guidance to classroom teachers on the integration of technology into the curriculum.

(p) 'State aid eligible personnel' means all professional educators and service personnel employed by a county board in positions that are eligible to be funded under this article and whose salaries are not funded by a specific funding source such as a federal or state grant, donation, contribution, or other specific funding source not listed.

(q) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for the 2019-2020 funding year, and the provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for funding years prior to the 2019-2020 funding year."

Delegate Steele asked and obtained unanimous consent that the following amendment be taken up for immediate consideration:

Delegates Dean and Paynter moved to amend the bill on pages 6-12, by striking out Article 16 in its entirety.

On pages 39-72, by striking out Article 5G in its entirety.

On pages 72-77, by striking out Article 7A in its entirety.

On pages 77-80, by striking out Article 7B in its entirety.

On page 114, section 7a, lines 237-239, by striking out subsection (v) in its entirety.

On page 143, section 5a, lines 69-81, by striking out subsection (g) in its entirety.

And,

Relettering the remaining subsection.

Delegate Bibby moved the previous question.

On this question, the yeas and nays were taken (**Roll No. 898**), and there were—yeas 26, nays 71, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Atkinson, Azinger, Bibby, Ellington, Espinosa, Fast, Foster, Hamrick, Hanna, Hardy, Higginbotham, Hill, Hott, D. Jeffries, Jennings, Kessinger, Kump, Malcolm, C. Martin, P. Martin, Pack, Porterfield, Steele, Summers, Waxman and Wilson.

Absent and Not Voting: Barrett, Cowles and Sponaule.

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

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. 899**), and there were—yeas 45, nays 52, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Cooper, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowan, Rowe, Skaff, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Barrett, Cowles and Sponaule.

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

The question on the adoption of the amendment offered by Delegate Espinosa, the same was put and adopted.

Delegate Anderson moved to amend the bill on page 100, section 2, line 21, following the word section, by inserting a colon and the following:

“Provided, That for any classroom teacher who satisfies these requirements and whose years of experience plus the three additional years due to them exceeds the years of experience provided for on the salary schedule shall be paid the additional amount equivalent to three additional years of experience notwithstanding the maximum experience provided on the salary schedule.”

And,

On page 100, section 2, line 25, following the word section, by inserting a colon and the following:

“Provided, That for any classroom teacher who satisfies these requirements and whose years of experience plus the three additional years due to them exceeds the years of experience provided for on the salary schedule shall be paid the additional amount equivalent to three additional years of experience notwithstanding the maximum experience provided on the salary schedule.”

Delegates Evans, C. Thompson, Zukoff, Mandt, Rowan, Hanna, Summers and Criss requested to be excused from voting on the amendment to H. B. 206 under the provisions of House Rule 49.

The Speaker replied that the Delegates were members of a class of persons possibly to be affected by the passage of the bill and directed the Members to vote.

The amendment was then adopted.

The House then returned to consideration of the amendment, as amended, offered by Delegates Hornbuckle, Skaff and Zukoff, which had been moved to the foot of amendments in earlier proceedings.

Whereupon,

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

Delegates Hornbuckle, Skaff and Zukoff moved to amend the bill on page 12, line 46, following the period at the end of section 22, by inserting the following:

“CHAPTER 11. TAXATION.

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-9s. Exemption for certain school supplies, school instructional materials, laptop and tablet computers, and sports equipment.

(a) Effective July 1, 2021, the items identified in subdivisions (1) through (5) of this subsection are exempt from the tax imposed by this article and §11-15A-1 et seq. of this code, if the sale or purchase occurs on the first Sunday of August, or the previous Friday and Saturday, or the following Monday. The items exempt are:

- (1) An item of clothing, the price of which is \$125 or less;
- (2) An item of school supplies. the price of which is \$50 or less;
- (3) An item of school instructional material, the price of which is \$20 or less;

(4) Laptop and tablet computers, not purchased for use in a trade or business, the price of which is \$500 or less; and

(5) Sports equipment, not purchased for use in a trade or business, the price of which is \$150 or less.

(b) For purposes of this section:

(1) 'Clothing' means all human wearing apparel suitable for general use. 'Clothing' includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; diapers, children and adult, including disposable diapers; ear muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel. 'Clothing' does not include items purchased for use in a trade or business; clothing accessories or equipment; protective equipment; sports or recreational equipment; belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; and sewing materials that become part of 'clothing' including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers.

(2) 'School supplies' means items commonly used by a student in a course of study. 'School supplies' includes only the following items: Binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic, and manila; glue, paste, and paste sticks; highlighters; index cards; index card boxes; legal pads; lunch boxes; markers; notebooks; paper, loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers; scissors; and writing tablets. 'School supplies' does not include any item purchased for use in a trade or business.

(3) 'School instructional material' means written material commonly used by a student in a course of study as a reference and to learn the subject being taught. 'School instructional material' includes only the following items: reference books, reference maps and globes, textbooks, and workbooks. 'School instructional material' does not include any material purchased for use in a trade or business.

(c) The tax commissioner shall promulgate emergency rules and shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to establish eligibility requirements for the exemptions established by this section."

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. 900)**, and there were—yeas 93, nays 4, absent and not voting 3, with the yeas and absent and not voting being as follows:

Nays: Criss, Ellington, Little and Porterfield.

Absent and Not Voting: Barrett, Cowles and Sponaugle.

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

The House of Delegates then returned to consideration of two amendments which had been moved to the foot of amendments in earlier proceedings.

In the absence of objection, both amendments were to be explained with the adoption of one precluding the adoption of the other. The amendments being a previously reported amendment offered by Delegate Espinosa and an amendment offered by Delegates Storch, Longstreth, Dean, C. Thompson and Zukoff, which was reported by the Clerk.

Whereupon,

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

Delegates Storch, Longstreth, Dean, C. Thompson and Zukoff then moved to amend the bill on page 110, section 7a, lines 116 through 149, and on page 111, by striking out subsection (m) in its entirety and inserting in lieu thereof the following:

~~“(k)-(m) Whenever a county board is required to reduce the number of professional personnel in its employment, the selection of the employee with the least amount of seniority shall to be properly notified and released from employment pursuant to the provisions of section two, article two of this chapter shall be based upon seniority, certification, licensure and performance evaluations. The provisions of this subsection are subject to the following:~~

(1) In the event of a reduction in force, a county board of education may properly notify and release from employment pursuant to the provisions of section two, article two of this chapter any classroom teacher with unsatisfactory evaluations for the previous two consecutive years regardless of years of service instead of release from employment of less senior classroom teachers with satisfactory performance evaluations;

~~(1)~~ (2) All persons employed in a certification area to be reduced who are employed under a temporary permit shall be properly notified and released before a fully certified employee in such a position is subject to release;

~~(2)~~ (3) Notwithstanding any provision of this code to the contrary, for any vacancy in an established, existing or newly created position that, on or before March 1, is known to exist for the ensuing school year, upon recommendation of the superintendent, the board shall appoint the successful applicant from among all qualified applicants. All employees subject to release shall be considered applicants for the positions for which they are qualified and shall be considered before posting such vacancies for application by nonemployees;

~~(3)~~ (4) An employee subject to release shall be employed in any other professional position where the employee is certified and was previously employed or to any lateral area for which the employee is certified, licensed or both, if the employees seniority is greater than the seniority of any other employee in that area of certification, licensure or both;

(4) ~~(5)~~ If an employee subject to release holds certification, licensure or both in more than one lateral area and if the employees seniority is greater than the seniority of any other employee in one or more of those areas of certification, licensure or both, the employee subject to release shall be employed in the professional position held by the employee with the least seniority in any of those areas of certification, licensure or both; and

~~(5)~~ (6) If, prior to August 1 of the year, a reduction in force is approved, the reason for any particular reduction in force no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the

released employee in writing of his or her right to be restored to his or her position of employment. Within five days of being so notified, the released employee shall notify the board, in writing, of his or her intent to resume his or her position of employment or the right to be restored shall terminate. Notwithstanding any other provision of this subdivision, if there is another employee on the preferred recall list with proper certification and higher seniority, that person shall be placed in the position restored as a result of the reduction in force being rescinded.”

Following discussion of both of the amendments, the question before the House was the adoption of the amendment offered by Delegates Storch, Longstreth, Dean, C. Thompson and Zukoff.

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. 901**), and there were—yeas 56, nays 41, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Atkinson, Azinger, Bibby, Butler, Cadle, Capito, Criss, Ellington, Espinosa, Fast, Foster, Graves, Hamrick, Hardy, Harshbarger, Higginbotham, Hill, Hott, Householder, Howell, D. Jeffries, Jennings, D. Kelly, Kessinger, Linville, Little, Malcolm, Mandt, C. Martin, P. Martin, Pack, Phillips, Porterfield, Shott, Steele, Summers, Sypolt, Waxman, Wilson, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Barrett, Cowles and Sponaule.

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

The adoption of the amendment offered by Delegates Storch, Longstreth, Dean, C. Thompson and Zukoff precluded the adoption of the amendment offered by Delegate Espinosa.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 902**), and there were, including pairs—yeas 51, nays 47, absent and not voting 2, with the paired, nays and absent and not voting and being as follows:

Pursuant to House Rule 43, the following pairing was announced by the Clerk:

Paired:

Yea: Hardy

Nay: Barrett

Nays: Angelucci, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Cooper, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowan, Rowe, Skaff, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Cowles and Sponaule.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 206) passed.

A title amendment to the title of the bill, offered by Delegate Rowan, was reported by the Clerk.

Whereupon,

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

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

H. B. 206 - "A Bill to amend and reenact §5-16-2 and §5-16-22 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-15-9s; to amend and reenact §15-1B-24 of said code; to amend said code by adding thereto a new section, designated §18-2E-12; to amend and reenact §18-5-14, §18-5-16, §18-5-16a, §18-5-18a, §18-5-18b, and §18-5-46 of said code; to amend said code by adding thereto a new section, designated §18-5-48; to amend and reenact §18-5A-2, §18-5A-3 and §18-5A-5 of said code; to amend said code by adding thereto a new article, designated §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-6, §18-5G-7, §18-5G-8, §18-5G-9, §18-5G-10, §18-5G-11 and §18-5G-12; to amend and reenact §18-7A-3 of said code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-8-4 of said code; to amend and reenact §18-9A-2, §18-9A-8 and §18-9A-9 of said code; to amend said code by adding thereto a new section, designated §18-9A-19; to amend said code by adding thereto a new section, designated §18-9B-22; to amend and reenact §18-20-5 of said code; to amend and reenact §18A-4-2, §18A-4-5, §18A-4-5a, §18A-4-7a, §18A-4-8a, and §18A-4-10 of said code; to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3, §18C-4-4, and §18C-4-5 of said code; to amend and reenact §18C-4A-1, §18C-4A-2, and §18C-4A-3 of said code; and to amend and reenact §29-12-5a of said code, all relating to public education; allowing public charter schools to participate in the Public Employees Insurance Agency insurance program; exempting the purchase of certain goods from sales tax for a period of time; requiring the Governor to expand Mountaineer Challenge Academy at its existing location; permitting creation of a new Mountaineer Challenge Academy location subject to agreement required under federal law; requiring the State Board of Education to implement the Mountain State Digital Literacy Project as a pilot project; modifying requirements for policies to promote school board effectiveness and eliminating requirement for filing and refiling policies with state board; limiting meetings with improvement councils to those at low performing schools; modifying agenda for meeting with school improvement council; eliminating reporting requirement; permitting county boards to establish attendance zones; replacing existing provisions pertaining to student transfers with requirement for county boards to establish an open enrollment policy; requiring appeal process whereby a parent or guardian can appeal the refusal of a county board to accept the transfer of the student; requiring the county to which a student is transferred include the student in its net enrollment in certain instances; providing that certain transfer provisions do not supersede eligibility requirements for participation in extracurricular activities established by the Secondary School Activities Commission; modifying student-teacher ratios; requiring the West Virginia Department of Education to survey districts to determine where overcrowding is impeding student achievement and requiring considerations therefore; increasing percentage of work time school counselors are required to spend in a direct counseling relationship with pupils; providing that the teacher's recommendation is a primary consideration in determining student promotion; authorizing county board to establish by policy an exceptional needs fund from certain surpluses and listing provisions that may be included; modifying membership of improvement councils; increasing prior notice of local school improvement council meetings; removing term limits for chair of council; removing council duty for meeting on student discipline issues and reporting to countywide council on productive and safe schools; requiring at least one council meeting annually for dialogue with parents and others on school's academic performance and standing; requiring meeting of certain council members of low performing school with county board and providing minimum issues to be addressed; referencing council authority to propose alternatives and request waivers of rules, policies, interpretations and state statutes; expanding issues on which school required to cooperate with council to promote innovations and improvements; removing reporting requirements; authorizing county boards to designate innovation schools and provide funding; reorganizing and clarifying

authority and procedures for local school improvement councils to propose alternatives to the operation of school including request of waiver to rules, policies, interpretations and state statutes; preserving primary authority of county board to approve alternatives subject to grant of necessary waivers by other bodies; authorizing off-site classrooms; increasing faculty senate allotment to classroom teachers and librarians; stating legislative intent and purpose of public charter school provisions; providing for liberal interpretation; prohibiting interpretation to allow conversion of private schools to public charter school; prohibiting elected official from profit or compensation except continued employment at school converted; limiting total number of public charter school authorized and in operation under an approved contract with periodic increases following reports by the State Board to the Legislative Oversight Commission on Education Accountability; providing that the Mountain Challenge Academy does not count toward total public charter schools: defining terms; specifying required general criteria that public charter schools must meet; establishing general provisions for public charter school governing boards; enumerating laws, policies, and codes that charter schools must comply with; providing powers and duties of state board for implementation, general supervision and support for public charter schools; requiring best practices catalogue, provision of forms, and training programs; authorizing receipt and expenditure of gifts, grants and donations and application for federal funds; reporting requirements and reports to Governor and Legislature; requiring state board as authorizer in certain instances; requiring state board rules related to funding, authorizer oversight funding, and other necessary issues; authorizing state board rule for ensuring accountability; specifying local education agency status; providing for authorizer powers and duties with respect applications, contracts to oversight and authorization; requiring appropriate corrective action or sanctions in response to deficiencies; providing authorization to require reports; requiring payment of oversight fee; prohibiting attachment of civil liability to authorizer, members or employees for acts or omissions of public charter school; limiting regulation of public charter schools by state and county boards to powers and duties as authorizers; establishing public charter school governing board membership, qualifications, status as public corporate body and authorized powers; listing governing board responsibilities for operation of public charter school; authorizing participation in cocurricular and extracurricular activities; mandating compliance with freedom of information and open governmental proceedings; providing for contents of application to form public charter school; specifying items to be addressed in charter contracts, contract term and execution; providing process for contract renewal, performance report and time frame for final determination; providing that failure of authorizer to act to be deemed approval; providing for revocation of charter contracts and specifying grounds; declaring authorizer responsibilities for closure when contract not renewed or revoked; providing for closure protocol and removal of governing board members; providing for processes for student enrollment in public charter schools; requiring publication of enrollment option by school and county board; prohibiting mandated enrollment or departures of students at a public charter school; requiring designation of primary recruitment area, its effect and basis; prohibiting discrimination in enrollment with allowance for program focus on students with special needs; authorizing establishment of enrollment preferences; establishing effect of enrollment preference on enrollment, excess capacity and random lottery when capacity exceeded; providing for student transfers to noncharter schools; requiring access to electronic information system for reporting student and school performance, certification of enrollment, attendance and other student information to Department of Education; providing process for public charter school use or lease of public facilities; allowing public charter schools to elect to participate in certain state retirement systems; modifying requirements applicable after certain numbers of unexcused student absences; including professional personnel providing direct social and emotional support services to students and professional personnel addressing chronic absenteeism within the definition of 'professional student support personnel'; modifying definition of net enrollment; increasing calculated net enrollment for the purposes of determining a county's basic foundation program of certain counties with an actual net enrollment of less than 1,400; decreasing the percent of the levy rate used to calculate local share; basing the basic foundation allowance for professional student support personnel on a ratio of positions per students and providing that nothing

in section precludes public-private partnerships or contracts to provide services; providing one year hold-harmless on number of positions funded; increasing the percentage used to calculate each county's allowance for current expense; increasing allotment for academic materials, supplies and equipment; requiring that each county board receive its allocated state aid share of the county's basic foundation program in the form of block grants; requiring the State Superintendent to provide the State Auditor with the required data for use by the searchable budget data website; including public charter schools in the provisions pertaining to an appropriation to serve certain exceptional children; increasing teacher salaries; providing that certain math and special education teachers be considered to have three additional years of experience for the purposes of the salary schedule; providing equivalent amount in teacher's experience exceeds salary schedule maximum years; removing definition of salary equity among the counties; removing requirement that Department of Education include in its budget request a request for funding sufficient to meet the objective of salary equity; adding to exceptions to requirement that county salary schedules be uniform; providing for determination of seniority by random lottery within thirty days of employment for teachers employed on same date; requiring county board to base all decisions on reductions in force and reemployment on seniority, certification, licensure and performance evaluations; listing criteria county board must consider; requiring consideration of performance evaluations; modifying provisions pertaining to the preferred recall list and posting of position openings; removing requirement for county board to annually make available a list of all professional personnel employed, their areas of certification, and their seniority; providing that all personnel in a public charter school accrue seniority for the purpose of employment in noncharter public schools; increasing monthly pay for service personnel; increasing leave without cause days from three to four; requiring a bonus for classroom teachers who have not used more than four days of personal leave during the employment term; renaming the Underwood-Smith Teacher Scholarship and Loan Assistance programs the Underwood-Smith Teaching Scholars Program and the Teacher Education Loan Repayment Program; modifying requirements for Higher Education Policy Commission rules providing for administration of the programs; requiring that Underwood-Smith Teaching Scholars award recipients receive additional academic support and training from mentors in their academic field; continuing the Underwood-Smith Teacher Scholarship and Loan Assistance Fund as the Underwood-Smith Teaching Scholars Program Fund; requiring each award recipient to be distinguished as an Underwood-Smith Teaching Scholar; establishing uses for moneys in the Underwood-Smith Teaching Scholars Program Fund; providing for continuation of certain terms, conditions, requirements, and agreements; requiring the Vice Chancellor for Administration to appoint a selection panel to select Underwood-Smith Teaching Scholars; modifying eligibility criteria for Underwood-Smith Teaching Scholars; modifying Underwood-Smith Teaching Scholars award agreement requirements; modifying renewal requirements for an Underwood-Smith Teaching Scholars award; modifying conditions under which a recipient is not in violation of the agreement; requiring Underwood-Smith Teaching Scholars award to be used in preparation for becoming a teacher in a critical shortage field in the public schools of this state; increasing the amount of the annual award; requiring as a condition of loan repayment award eligibility an applicant to be currently employed in a public school in this state in a critical teacher shortage field or as a school counselor in a school or geographic area of the state identified as an area of critical need for such field; requiring as a condition of eligibility an applicant to agree to be employed full time for two school years in a critical teacher shortage field or as a school counselor in a school or geographic area of critical need for such field for each year for which a loan repayment assistance award is received; modifying provisions pertaining to the amount of loan assistance and the requirements for eligibility; modifying eligibility requirements for renewal of scholarship award and loan repayment assistance award; removing accumulated limit on loan repayment awards; increasing minimum Board of Risk and Insurance Management coverage; requiring at least annual written notice of Board of Risk and Insurance Management insurance coverages by county boards to employee insureds; allowing public charter schools to obtain insurance coverage from the Board of Risk and Insurance Management; providing effective dates and making technical changes."

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

On this question, the yeas and nays were taken (**Roll No. 903**), and there were—yeas 75, nays 22, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: N. Brown, S. Brown, Campbell, Diserio, Doyle, Estep-Burton, Fleischauer, Fluharty, Hartman, Hornbuckle, Lavender-Bowe, Lovejoy, McGeehan, Pyles, Rodighiero, Staggers, C. Thompson, R. Thompson, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Barrett, Cowles and Sponaugle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 206) 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.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Barrett, Sponaugle and Cowles.

Delegate McGeehan moved that the House of Delegates adjourn *sine die*.

The question being, "Shall the House adjourn *sine die*?", the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 904**), and there were—yeas 38, nays 58, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Barrett, Cowles, Sponaugle and Staggers.

So, a majority of the members present and voting not having voted in the affirmative, the motion to adjourn *sine die* did not prevail.

Miscellaneous Business

Delegate Nelson noted to the Clerk that he was absent when the vote was taken on Roll No. 882, and had he been present, he would have voted "Yea" thereon.

Delegate C. Martin noted to the Clerk that he was absent when the vote was taken on the passage of H. B. 174, and had he been present, he would have voted "Yea" thereon.

Delegate McGeehan announced that he was absent on today when the vote was taken on Roll No. 896, and that had he been present, he would have voted "Yea" thereon.

Pursuant to House Rule 132, unanimous consent was requested and obtained to print all the remarks of Members during the debate on the passage of H. B. 206 in the Appendix to the Journal.

At 11:21 p.m., Wednesday, June 19, 2019, the House of Delegates adjourned, pursuant to H. C. R. 101, until the call of the Speaker.

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

SPECIAL CALENDAR

Monday, July 22, 2019

11th Day

12:00 P. M.

(NO BILLS)

HOUSE CALENDAR

Monday, July 22, 2019

11th Day

12:00 P. M.

THIRD READING

- H. B. 120 - Supplementary appropriation to the Department of Transportation
(RIGHT TO AMEND)
- H. B. 134 - Increasing annual salaries of public school teachers and school
service personnel (RIGHT TO AMEND)

SECOND READING

- H. B. 168 - Establishing the West Virginia Equal Opportunity Education
Scholarship program

**WEST VIRGINIA
HOUSE OF DELEGATES**

MONDAY, JULY 22, 2019

HOUSE CONVENES AT 12:00 NOON

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