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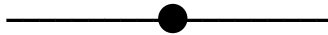
Eighty-Fifth Legislature  
First Regular Session

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April 8, 2021  
FIFTY-EIGHTH DAY





Thursday, April 8, 2021

### FIFTY-EIGHTH DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, April 7, 2021, being the first order of business, when the further reading thereof was dispensed with and the same approved.

### Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that Com. Sub. for S. B. 509 and Com. Sub. for S. B. 610, on Second reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for S. B. 34, on Second reading, House Calendar, had been transferred to the Special Calendar.

### Committee Reports

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

Your Committee on Rules has had under consideration:

**H. C. R. 95**, Requesting Joint Committee and Government and Finance study the effect losing a Congressional district would have on boards, commissions and others,

And,

**H. C. R. 103**, Interim study to improve the education system in West Virginia,

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

### Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented communications from His Excellency, the Governor, advising that on April 7, 2021, he approved **S. B. 67, Com. Sub. for S. B. 356, S. B. 390, Com. Sub. for S. B. 431, Com. Sub. for S. B. 435, Com. Sub. for H. B. 2014, Com. Sub. for H. B. 2290, Com. Sub. for H. B. 2382, Com. Sub. for H. B. 2896, H. B. 2897, H. B. 2899, H. B. 2901, H. B. 2903, H. B. 2920 and H. B. 2940.**

### Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect July 1, 2021, and requested the concurrence of the House in the changed effective date, of

**Com. Sub. for H. B. 2722**, Prohibiting the use of class B fire-fighting foam for testing purposes if the foam contains a certain class of fluorinated organic chemicals.

On the question that the bill take effect July 1, 2021, the yeas and nays were taken (**Roll No. 511**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Diserio and Graves.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2722) takes effect July 1, 2021.

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

### Special Calendar

#### Third Reading

**Com. Sub. for S. B. 335**, Relating to WV Invests Grant Program for students at accredited community and technical college; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 512**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Gearheart, J. Jeffries and Kimes.

Absent and Not Voting: Booth and Graves.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 335) passed.

Delegate Summers moved that the bill take effect July 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 513**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Gearheart.

Absent and Not Voting: Booth and Graves.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 335) takes effect July 1, 2021.

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

**Com. Sub. for S. B. 419**, Redefining “firearm” to match federal code; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 514**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Booth and Graves.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 419) passed.

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

**Com. Sub. for S. B. 458**, Relating to possession of firearms by individuals during state of emergency; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 515**), and there were—yeas 93, nays 6, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Doyle, Fleischauer, Hansen, Rowe, Walker and Williams.

Absent and Not Voting: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 458) passed.

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

**S. B. 486**, Relating to powers and duties of Chief Technology Officer; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 516**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 486) passed.

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

**S. B. 488**, Relating to distributing hotel occupancy tax to convention and visitor's bureaus; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment offered by Delegate Fast was reported by the Clerk, on page 4, section 14, line 5, immediately following the words "Required expenditures.", by striking out the words "At least 50" and inserting in lieu thereof "Not more than 40".

Whereupon,

Delegate Fast subsequently obtained unanimous consent that his amendment be withdrawn.

The bill was then read a third time.

Delegates Queen and B. Ward requested to be excused from voting under the provisions of House Rule 49.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 517**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Booth.

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

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

**S. B. 521**, Extending licensure renewal term of certain private investigators, security guards, and associated firms; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 518**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Booth and Householder.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 521) passed.

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

**S. B. 529**, Correcting improper citation relating to DMV registration; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 519**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Booth and Householder.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 529) passed.

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

**Com. Sub. for S. B. 534**, Permitting Economic Development Authority to make working capital loans from revolving loan fund capitalized with federal grant funds; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 520**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Bates, McGeehan and Pritt.

Absent and Not Voting: Booth and Dean.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 534) passed.

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

**Com. Sub. for S.B. 534** - “A Bill to amend and reenact §12-6C-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §31-15-5 and §31-15-6 of said code, all relating generally to Economic Development Authority; increasing the revolving loan capacity from the Board of Treasury Investments to the Economic Development Authority to an amount not to exceed \$200 million; establishing the interest rate by which the revolving loan will be secured; providing that the State Treasurer shall be a member of the Economic Development Authority Board; authorizing the Economic Development Authority to make working capital loans from a revolving loan fund capitalized with federal grant funds including those federal grant funds received from the United States Economic Development Administration; and clarifying that the authority is not authorized to enter into contracts or agreements with financial institutions for banking goods or services without the approval of the State Treasurer.”

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

**Com. Sub. for S. B. 613**, Adding classification and base salaries of certain civilian employees of State Police Forensic Laboratory; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 521**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Booth.

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

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

**Com. Sub. for S. B. 613** - "A Bill to amend and reenact §15-2-5 and §15-2-7 of the Code of West Virginia, 1931, as amended, all relating to adding the classification and base salaries of certain civilian employees of the West Virginia State Police Forensic Laboratory as Evidence Custodians I-IV, Forensic Technicians I-III, Forensic Scientists I-VI, and Forensic Scientist Supervisors I-IV; providing for promotion based upon the Forensic Lab Career Progression System; directing that a written manual be provided to individuals within the forensic laboratory governing certain established systems and that specific procedures must be identified for the evaluation of promotion or reclassification of those individuals; and providing for the inclusion of these civilian employees in longevity salary increase provisions."

**Com. Sub. for S. B. 636**, Requiring certain history and civics courses be taught in schools; on third reading, coming up in regular order, was read a third time.

Delegate Thompson requested to be excused from voting 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 and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 522**), and there were—yeas 91, nays 8, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Fleischauer, Fluharty, Hanna, Hansen, Kimes, Rowe, Statler and Young.

Absent and Not Voting: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 636) passed.

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

**Com. Sub. for S. B. 636** – "A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to imposing additional requirements for the courses required for all public, private, parochial, and denominational schools in the history of the State of West Virginia, the history of the United States, in civics, in the Constitution of the United States, and in the government of West Virginia; requiring the State Board of Education to consult with other entities in prescribing the courses of study; requiring the State Board of Education to include the basic course requirements for middle school and high school and the academic standards when prescribing the courses of study; requiring the State Board of Education to publish an approved list of instructional resources; requiring the State Board of Education to provide testing or assessment instruments for the history and civics courses of instruction; expanding amendments to the Constitution of the United States to be emphasized as a part of the instruction in each social studies class required during Celebrate Freedom Week; requiring public high school students complete one-credit course in personal finance as a requirement for high school graduation; replacing existing economics coursework requirements; requiring end-of-course examination; and requiring state board to shall develop personal finance curriculum."

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



**Com. Sub. for S. B. 671**, Appointing Director of Office of Emergency Medical Services; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 523**), and there were—yeas 79, nays 20, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Bruce, Conley, Diserio, Fast, Foster, Hanna, Jennings, J. Kelly, Kimes, Martin, McGeehan, Paynter, Pinson, Pritt, Statler, Summers, Sypolt, Toney, B. Ward and Zukoff.

Absent and Not Voting: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 671) passed.

On motion of Delegate J. Pack, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 671**- “A Bill to amend and reenact §16-4C-4 of the Code of West Virginia, 1931, as amended, relating to providing for the appointment of a Director of the Office of Emergency Medical Services; providing qualifications; and requiring that the Office of Emergency Medical Services director be appointed by the Secretary of the Department of Health and Human Resources”

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

**Com. Sub. for S. B. 684**, Adding Curator of Division of Arts, Culture, and History as ex officio voting member to Library Commission; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 524**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Fast, Fluharty, Kimes, Pushkin and Young.

Absent and Not Voting: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 684) passed.

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

**Com. Sub. for S. B. 695**, Providing procedures for decreasing or increasing corporate limits by annexation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 525**), and there were—yeas 68, nays 31, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Barach, Brown, Dean, Diserio, Doyle, Ellington, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Higginbotham, Hornbuckle, J. Kelly, Kimes, Lovejoy, Miller, Nestor, Pushkin, Queen, Riley, Rohrbach, Rowe, Skaff, Thompson, Toney, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 695) passed.

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

On this question, the yeas and nays were taken (**Roll No. 526**), and there were—yeas 93, nays 6, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Doyle, Hansen, J. Kelly, Kimes, Miller and Walker.

Absent and Not Voting: Booth.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 695) takes effect from its passage.

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

**S. B. 714**, Relating to physician assistant practice act; on third reading, coming up in regular order, was read a third time.

Delegate Tully requested to be excused from voting 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 and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 527**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Booth and Bridges.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 714) passed.

On motion of Delegate J. Pack, the title of the bill was amended to read as follows:

**H. B. 714** - "A Bill to repeal §30-3E-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-3E-1, §30-3E-2, §30-3E-3, §30-3E-4, §30-3E-9, §30-3E-10a, §30-3E-11, §30-3E-12, §30-3E-13, and §30-3E-17 of said code, all relating to health care practitioners; defining terms; limiting rule-making authority; revising licensure requirements; revising practice requirements; eliminating practice agreement requirement; revising practice notification requirement; providing prescriptive authority; revising collaboration requirements; expanding scope of practice; expanding prescriptive authority; establishing minimum reimbursement rates; and revising complaint process."

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

**S. B. 717**, Supplemental appropriation from General Revenue to WV Community and Technical College Education, Control Account; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 528**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Booth and Bridges.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 717) passed.

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

On this question, the yeas and nays were taken (**Roll No. 529**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Booth and Bridges.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 717) takes effect from its passage.

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

### **Second Reading**

**Com. Sub. for S. B. 7**, Limiting political activity by public employees; on second reading, coming up in regular order, was read a second time.

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

#### **“ARTICLE 4. POLITICAL ACTIVITY BY PUBLIC EMPLOYEES AND PUBLIC OFFICIALS.**

##### **§6B-4-1. DEFINITIONS; EXCEPTIONS.**

(a) For purposes of this article, ‘political activity’ means expressly advocating for others to vote for or against a candidate or to support or oppose a political committee or political party.

(b) This article shall not apply to:

(1) Members of the Legislature;

(2) Publicly elected members of the Board of Public Works;

(3) Uncompensated public officials; and

(4) Uncompensated public servant volunteers.

**§6B-4-2. Limitation on political activity by public employees and public officials.**

In addition to any other restrictions on political activity imposed by this code or by federal law, a public employee or a public official may not engage in political activity:

(1) While on duty; or

(2) While using any vehicle owned or leased by the State of West Virginia or any agency or political subdivision thereof.

**§6B-4-3. Violations and penalties. Upon a final decision by the commission that a public employee or public official violated any provision of §6B-4-2 of this code, that person shall be subject to potential sanctions, recommendation of termination from employment or removal from office, or both as provided in §6B-2-4 of this code.**

The bill was ordered to third reading.

**Com. Sub. for S. J. R. 9**, Disabled Veterans' Exemption from Ad Valorem Property Taxation Amendment; on second reading, coming up in regular order, was read a second time.

There being no objection, unanimous consent was obtained to advance the resolution to third reading with amendment pending and the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

**Com. Sub. for S. J. R. 11**, Constitutional Officer Term Limit Amendment; on second reading, coming up in regular order, was read a second time.

There being no objection, unanimous consent was obtained to advance the resolution to third reading with amendment pending and the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

**Com. Sub. for S. B. 34**, Creating exemption to state sales and use tax for rental and leasing of equipment; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Finance, was reported by the Clerk and adopted, amending the bill on page 7, section 9, on line 160, following the word "amended" and the period, by striking out the word "Control", and inserting in lieu thereof the following:

"For purposes of this subdivision, "control".

And,

On line 166, after the word "among", by striking out the remainder of the paragraph and inserting in lieu thereof the following:

"corporations, partnerships, or limited liability companies when the entities are members of the same control group or are related taxpayers as defined in Section 267 of the Internal Revenue Code of 1986, as amended."

The bill was then ordered to third reading.

**Com. Sub. for S. B. 332**, Providing procedure for WV to select delegates to Article V Convention; on second reading, coming up in regular order, was read a second time.

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

**Com. Sub. for S. B. 334**, Establishing license application process for needle exchange programs; on second reading, coming up in regular order, was read a second time.

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

**Com. Sub. for S. B. 398**, Limiting eligibility of certain employers to participate in PEIA plans; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page 1, section 29, following the section heading by striking the remainder of the bill and inserting in lieu thereof the following:

“Notwithstanding any other provision of this article to the contrary, the director may not consider any employer eligible for participation in a plan except for the following:

(1) All mandatory participants, including the State of West Virginia, its boards, agencies, commissions, departments, institutions, or spending units;

(2) Any county board of education or public charter school established pursuant to §18- 5G-1 et seq. of this code, if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance program: Provided, That as it relates to eligible public charter schools, only employees directly employed by a charter school that is exempt from the payment of taxes under the United States Internal Revenue Code, Title 26 U.S.C. §501(c)(3), may participate in a plan.

(3) Any employer participating in a plan as of the effective date of the enactment of this section in the 2021 regular session of the Legislature.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 464**, Requiring composting of organic materials and commercial composting products comply with WV Fertilizer Law; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 470**, Limiting release of certain personal information maintained by state agencies; on second reading, coming up in regular order, was read a second time.

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

**Com. Sub. for S. B. 478**, Permitting use of established federal marketplace programs to purchase supplies; on second reading, coming up in regular order, was read a second time.

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

**“ARTICLE 1J. THE WEST VIRGINIA MILITARY AUTHORITY ACT.**

**§15-1J-4. Establishment and general powers of the authority.**

- (a) The West Virginia Military Authority is hereby established to administer national security, homeland security, and other military-related or sponsored programs.
- (b) The authority will be administered by the Adjutant General of the West Virginia National Guard.
- (c) Funds provided by the federal government and any state funds authorized by appropriation of the Legislature used as a required match to secure federal funding for programs administered by the authority pursuant to this section shall be administered by the Adjutant General subject to the provisions of §4-11-1 *et seq.* of this code.
- (d) Except as otherwise prohibited by statute, the authority, as a governmental instrumentality exercising public powers of the state, shall have and may exercise all powers necessary or appropriate to carry out the purpose of this article, including the authority to:
- (1) Execute cooperative agreements between the guard and the federal and/or state governments;
  - (2) Contract on behalf of the guard with the federal government, its instrumentalities and agencies, any state, territory, or the District of Columbia and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals;
  - (3) Use funds administered by the authority pursuant to subsection (c) of this section for the maintenance, construction, or reconstruction of capital repair and replacement items as necessary and approved by the authority;
  - (4) Accept and use funds from the federal government, its instrumentalities and agencies, any state, territory, or the District of Columbia and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals for the purposes of national security, homeland security, and other military-related or sponsored programs;
  - (5) Procure insurance with state funds through BRIM covering property and other assets of the authority in amounts and from insurers that BRIM determines necessary;
  - (6) Contract on behalf of the guard with the federal government, its instrumentalities, and agencies, any state, territory, or the District of Columbia and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals for specialized technical services at a rate commensurate with

industry standards as determined by the Adjutant General to support specific activities related to national security, homeland security, and other military-related programs;

(7) Hire employees at an appropriate salary equivalent to a competitive wage rate;

(8) Enroll employees in PERS, PEIA, and workers' compensation and unemployment programs, or their equivalents: *Provided*, That the authority, through the receipt of federal and/or state funds, pays the required employer contributions;

(9) Cooperate with economic development agencies in efforts to promote the expansion of industrial, commercial, and manufacturing in the state;

(10) Develop a human resources division that will administer and manage its employees and receive state matching funds as necessary to ensure maximum federal funds are secured;

(11) Due to the at-will employment relationship with the authority, its employees may not avail themselves of the state grievance procedure as set forth in §29-6A-1 *et seq.* of this code; ~~and~~

(12) Have the ability to secure all other bonding, insurance, or other liability protections necessary for its employees to fulfill their duties and responsibilities; and

(13) Purchase or contract under an established United States General Services Administration purchase programs, such as the General Services Administration Global Supply, catalogue, marketplace, or any other state or federal contract, platform, or program for the purchase of uniforms, safety equipment, personal protection equipment, firearms, supplies, materials, or for education textbooks, instructional materials, digital content resources, instructional technology, hardware, software, telecommunications, and technical services without application of the provisions of §5A-3-1 *et seq.* of this code: *Provided*, That nothing in this section would limit or prevent the State Auditor from performing an audit on any purchases made pursuant to this subdivision.

(e) There is hereby created in the State Treasury a special revenue account designated the Military Authority Fund which shall be administered by the Adjutant General. All revenues received from nonfederal government entities shall be deposited into the special revenue account and may be used by the Adjutant General in accordance with the provisions of this article."

The bill was then ordered to third reading.

**Com. Sub. for S. B. 485**, Relating to use or presentation of firearm during commission of felony; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page 1, section 61-7-15a, line 6, by striking out "other than those set forth in subsection (c) of this section."

And,

On page 1, section 61-7-15a, line 7, by inserting after the word who, "is otherwise prohibited by law from possessing a firearm."

The bill was then ordered to third reading.

**Com. Sub. for S. B. 492**, Establishing program for bonding to reclaim abandoned wind and solar generation facilities; on second reading, coming up in regular order, was read a second time.

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

**Com. Sub. for S. B. 502**, Providing lifetime hunting, fishing, and trapping license to residents, adopted, and foster children under 15; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 532**, Limiting claims for state tax credits and rebates; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page 1, section 5ee, line 10, following the word "is", by striking out the word "least" and inserting in lieu thereof the word "most".

The bill was ordered to third reading.

**S. B. 537**, Relating generally to kidnapping; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 542**, Relating generally to public electric utilities and facilities fuel supply for existing coal-fired plants; on second reading, coming up in regular order, was read a second time.

An amendment, offered by Delegate Evans, was reported by the Clerk on page 3, following Section 21 after line 24, by inserting a new section to read as follows:

**§24-2-22. Coal community comeback planning required; Coal Community Comeback Advisory Committee established; Coal Community Comeback Plan.**

(a) The West Virginia Public Service Commission shall facilitate a process to create a Coal Community Comeback Plan for the State of West Virginia, which shall include, at a minimum:

(1) The maintenance and development of water and wastewater, broadband, and other infrastructure needed to revitalize impacted communities;

(2) Opportunities to maintain and increase jobs in coal mines, coal-fired power plants, and other sectors that would diversify the economies of impacted communities;

(3) Grants and local, state, federal, and other sources of funding that will assist impacted communities, and recommendations to align and target existing local, state, and federal funding and leverage additional funding to support impacted communities and impacted workers;

(4) Other programs and activities that will assist impacted communities, and recommendations to align and target existing local, state, and federal programs and activities and establish additional programs and activities to support impacted communities and impacted workers;



(5) Recommendations for legislation, studies, and other activities, including but not limited to the creation of a fund to collect and distribute public revenue to address shortfalls in funding for counties, school systems, and municipalities in impacted communities;

(6) Planning of and facilitation of innovative land use and economic development activities that impacted communities can use to diversify their economies;

(7) Projected short-term and long-term costs and benefits to the state of each plan component;

(8) Potential fiscal, economic, workforce, and other implications of extending plan components to other sectors and industries affected by similar economic disruptions; and

(9) Which components can be implemented under existing authority and which require additional legislation.

(b) There is hereby created the Coal Community Comeback Advisory Committee to develop and recommend a Coal Community Comeback Plan for the State of West Virginia. It shall consist of the following members:

(1) The Chair of the West Virginia Public Service Commission or his or her designee, who shall serve as co-chairperson of the Committee;

(2) The Secretary of the Department of Economic Development or his or her designee, who shall also serve as co-chairperson of the Committee;

(3) One representative of the Office of the Governor;

(4) One member of the Senate appointed by the president of the Senate, and one member of the House of Delegates appointed by the Speaker of the House; and the following members, to be appointed by the Governor:

(A) Two representatives of labor unions;

(B) Three representatives of impacted workers from impacted communities;

(C) Two representatives with professional economic development or workforce retraining experience; and

(D) Two representatives of utilities that, on the effective date of this section, operated one or more coal-fueled electric generating units.

(c) (1) The West Virginia Public Service Commission shall provide administrative and logistical support to the work of the Committee.

(2) The Committee shall meet at least once every three months. The chairpersons may call such additional meetings as are necessary for the Committee to complete its duties.

(3) Each member of the Committee is entitled to receive reimbursement for actual and necessary expenses pursuant to §4-2A-6 of this code.

(4) The Committee may engage additional nonvoting members or advisors and provide additional expertise as needed.

(5) The Committee shall hold at least three public hearings in the state on the Coal Community Comeback Plan, with at least one hearing held in each congressional district of the state. On or before July 1, 2022, the Committee shall present its draft Coal Community Comeback Plan to the Chair of the West Virginia Public Service Commission. On or before December 31, 2022, the Committee shall present its final Coal Community Comeback Plan to the Governor and the Legislature. Unless otherwise extended by Act of the Legislature, the Committee shall expire effective January 1, 2023.

(d) As used in this section:

(1) 'Coal-related employment' means employment in the coal industry, or an industry dependent on coal production, consumption, or distribution;

(2) 'Committee' means the Coal Community Comeback Advisory Committee established pursuant to §24-2-22(b) of this code;

(3) 'Impacted community' means a county in which a coal mine or a coal-fired plant has closed after December 31, 1999, causing a loss of at least 200 jobs;

(4) 'Impacted worker' means a West Virginia worker laid off from coal-related employment who has not found employment with similar wages or benefits."

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

**Com. Sub. for S. B. 569**, Relating to damages for medical monitoring; on second reading, coming up in regular order, was read a second time.

An amendment, offered by Delegate Steele, was reported by the Clerk on page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**"ARTICLE 7. ACTIONS FOR INJURIES.**

**§55-7-32. Limitations on medical monitoring damages.**

(a) In any civil action where a plaintiff who does not allege a present physical injury or disease seeks to recover future medical monitoring costs as damages, a defendant cannot be required to pay as damages or provide any other type of legal, injunctive or equitable relief for a plaintiff's future medical surveillance, screening tests or monitoring procedures unless the plaintiff proves to a reasonable degree of certainty all of the requirements for the underlying cause of action and that:

(1) He or she has been significantly exposed;

(2) To a proven hazardous substance;

(3) Through the tortious conduct of the defendant;

(4) As a proximate result of the exposure, the plaintiff has suffered a significantly increased risk of contracting a serious latent disease relative to the general population of more than one hundred percent;

(5) The increased risk of disease makes it objectively medically necessary for the plaintiff to undergo periodic diagnostic medical examinations and such periodic diagnostic medical examinations are different from what would be prescribed in the absence of the exposure;

(6) Monitoring procedures exist that make the early detection of a disease possible; and

(7) Early detection is beneficial, meaning that a treatment exists that can significantly decrease the risk of death or the severity of the disease, according to contemporary scientific principles.

(b) A claim under this section may be brought by a Plaintiff after birth based on a prenatal exposure, regardless of whether the prenatal exposure occurred prior to fetal viability, if the Plaintiff otherwise meets the requirements of this section.

(c) In any civil action in which a court orders a defendant to pay for a plaintiff's future medical surveillance, screening tests or monitoring procedures in the absence of a present physical injury or disease, no plaintiff shall be awarded or paid any moneys to cover the cost of his or her future medical surveillance, screening tests or monitoring procedures until such surveillance, tests or monitoring procedures have been completed. With respect to payments for such damages in the future, the court shall order that the liable defendant make periodic payments into a fund established sufficient to timely pay the cost of future medical surveillance, screening tests or monitoring procedures that are required by the judgment of the court. The court shall determine how such fund will be administered. The court shall also determine the date after which such future medical surveillance, screening tests or monitoring procedures are no longer required, and, after that date, any moneys remaining in the fund that are not needed to pay for medical surveillance, screening tests or monitoring procedures completed prior to such termination date shall be repaid to the liable defendant who paid such amounts into the fund. If there are multiple such defendants, then repayments shall be made in proportion to the total contributions of each defendant into the fund.

(d) The damage award authorized by this section is not available in a civil action brought against an employer pursuant to paragraph (B), subdivision (2), subsection (d), section two, article four, chapter twenty-three of this code.

(e) No award of punitive damages shall be made with respect to damages awarded under this section.

(f) It is a defense to the award of damages authorized in this section that the benefits of medically monitoring the exposed population are outweighed by the costs of the monitoring. In making this determination, the finder of fact may consider:

(1) The number of people likely to benefit from the monitoring in relation to the population to be monitored;

(2) Whether early diagnosis of the latent disease is likely to lead to a better treatment outcome;

(3) Whether treatment currently exists for the disease that is the subject of medical monitoring or whether the condition diagnosed is an irreversible and untreatable disease; and

(4) Whether the assets of the defendant are limited such that the available funds should be reserved to compensate those who have or subsequently develop injury.

(g) Notwithstanding any provision of this code to the contrary, the venue for any civil action brought pursuant to the provisions of this section shall lie in the county where the significant exposure allegedly occurred.”

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

**Com. Sub. for S. B. 641**, Allowing counties to use severance tax proceeds for litter cleanup programs; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 642**, Requiring legal advertisements by State Auditor be posted to central website; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 655**, Eliminating sunset and legislative audit provisions for certain PSC rules; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 657**, Relating to free expression on state institution of higher education campuses; on second reading, coming up in regular order, was read a second time. The bill was then ordered to third reading.

**Com. Sub. for S. B. 658**, Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 660**, Providing for cooperation between law-enforcement agencies and military authorities; on second reading, coming up in regular order, was read a second time.

Delegates Fast and Steele, respectively, were recognized to explain the following two strike and insert amendments.

An amendment recommended by the Committee on the Judiciary was explained by Delegate Fast:

On page 1, immediately after the enacting clause by striking out the remainder of the bill and inserting in lieu thereof the following:

**“ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.**

**§15-10-7. Cooperation with military authorities.**

(a) Unless otherwise prohibited by this Code, the head of a law-enforcement agency or head of a campus police department, as those positions are defined in §15-10-3 of this code, may assign law-enforcement personnel under his or her command to provide assistance, cooperation, and information to the National Guard of this state or any service component of the United States

Department of Defense located in this state upon the written request of the Adjutant General or the commanding officer of the unit or facility.

(b) The assistance authorized by subsection (a) of this section may be provided for:

(1) Alleged violations of the federal and state Codes of Military Justice;

(2) Alleged violations of the criminal laws of the United States and the State of West Virginia when those involve military property and personnel;

(3) Investigations and other actions related to reports of sexual assault or sexual harassment, to include any cases of reprisal or retaliation; and

(4) Violations of military directives, regulations, or instruction.

(c) The purpose of this section is to support the military by providing it objective, qualified, law-enforcement services.

(d) It shall be unlawful for any law enforcement officer employed by the state of West Virginia, or, by any municipality or political subdivision of the same, to cooperate with the National Guard of this state, or any other service component of the United States Department of Defense, to investigate, or enforce, any crimes relating to any federal firearms laws, which are not also crimes prohibited by the laws of this state.”

Delegate Steele offered an amendment for which the Delegate was recognized to explain as follows:

On page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.**

**§15-10-7. Cooperation with military authorities.**

(a) Unless otherwise prohibited by this Code, the head of a law-enforcement agency or head of a campus police department, as those positions are defined in §15-10-3 of this code, may assign law-enforcement personnel under his or her command to provide assistance, cooperation, and information to the National Guard of this state or any service component of the United States Department of Defense located in this state upon the written request of the Adjutant General or the commanding officer of the unit or facility.

(b) The assistance authorized by subsection (a) of this section may be provided for:

(1) Alleged violations of the federal and state Codes of Military Justice;

(2) Alleged violations of the criminal laws of the United States and the State of West Virginia when those involve military property and personnel;

(3) Investigations and other actions related to reports of sexual assault or sexual harassment, to include any cases of reprisal or retaliation; and

(4) Violations of military directives, regulations, or instruction.

(c) The purpose of this section is to support the military by providing it objective, qualified, law-enforcement services.

(d) It shall be unlawful for any law enforcement officer employed by the state of West Virginia, or, by any municipality, or political subdivision, of the same, to cooperate with the National Guard of this state, or any other service component of the United States Department of Defense, to investigate, or enforce, any crimes relating to any federal act, law, order, rule, or regulation regarding a firearm, firearm accessory, or ammunition if the act, law, order, rule, or regulation does not exist does under the laws of this state or is not substantially similar to a law of this state.

**§15-10-8 Non-commandeering of civilian law enforcement agencies by federal agencies.**

(a) Other than compliance with an order of a court of this state, notwithstanding any law, regulation, rule, or order to the contrary, no agency of this state, political subdivision of this state, or employee of an agency or political subdivision of this state acting in his or her official capacity may use agency or department moneys or personnel to investigate, interrogate, detain, detect, or aid a federal agency in whole or in part or arrest persons for federal law enforcement purposes, including any of the following:

(1) Inquiring into an individual's ownership regarding a firearm, firearm accessory, or ammunition, if the act, law, order, rule, or regulation for which the individual is suspected to be in violation does not exist under the laws of this state nor is substantially similar to a law of this state;

(2) Detaining an individual on the basis of a hold request related solely to an alleged federal firearm violation;

(3) Providing personal information about an individual, including, but not limited to, the individual's home address or work address if that information is required for the purpose of furthering a federal firearm investigation into a violation of federal firearm law that is not otherwise unlawful in West Virginia, unless that information is available to the public;

(4) Making or intentionally participating in arrests based strictly on a federal firearm law that differs from or is not substantially similar to a West Virginia law;

(5) Performing the functions of an agent or officer of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives, whether pursuant to any other law, regulation, or policy, whether formal or informal, if such function is to knowingly and willingly participate in any way in the enforcement of any federal act, law, order, rule, or regulation regarding a firearm accessory or ammunition if the act, law, order, rule or regulation does not exist in the laws of the State of West Virginia or is not substantially similar to a law of West Virginia;

(6) Placing law enforcement officers under the supervision of federal agencies or employ law enforcement officers deputized as special federal officers or special federal deputies for purposes of federal firearm law enforcement unless the act, law, order, rule, or regulation for which such enforcement is sought is the same as or substantially similar to a law of West Virginia. All law enforcement officers remain subject to West Virginia law governing conduct of law enforcement officers and the policies of the employing agency;

(7) Providing office space exclusively dedicated for federal authorities for use within a municipal or county law enforcement facility for the purpose of federal firearms regulation enforcement; or

(8) Utilizing any assets, state funds, or funds allocated by the state to local entities on or after the effective date of this article, in whole or in part, to engage in any activity that aids a federal agency, federal agent, or corporation providing services to the federal government in the enforcement or any investigation pursuant to the enforcement of any federal act, law, order, rule, or regulation regarding a firearm, firearm accessory, or ammunition if the act, law, order, rule, or regulation does not exist under the laws of this state or is not substantially similar to a law of this state.

(b) Notwithstanding the limitations in subdivision (1) of this section, this section does not prevent any West Virginia law enforcement agency from doing any of the following that does not violate any policy of the law enforcement agency or any local law or policy of the jurisdiction in which the agency is operating:

(1) Investigating, enforcing, or detaining upon reasonable suspicion of, or arresting for a violation of state law that is detected during an unrelated law enforcement activity.

(2) Responding to a request from federal law enforcement authorities for information about a specific person's criminal history, including previous criminal arrests, convictions, or similar criminal history information, or where otherwise permitted by state law.

(3) Conducting enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other law enforcement agencies for purposes of task force investigations, and shall serve as immunity for involved officers against prosecution so long as the following conditions are met:

(A) The primary purpose of the joint law enforcement task force is not federal firearm law enforcement; and

(B) The enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to federal firearm law enforcement.

#### **§15-10-9 Severability.**

If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this article, and to this end the provisions of this article are declared to be severable."

Delegate Pushkin arose to inquire of the Chair as to the germaneness of the amendment offered by Delegate Steele.

The Speaker ruled that both amendments were germane.

Subsequently, unanimous consent was obtained to advance the bill to third reading with amendments pending, and the rule was suspended to permit the offering and consideration of amendments on that reading.

**S. B. 661**, Permitting retailers to assume sales or use tax assessed on tangible personal property; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 674**, Clarifying that unpaid restitution does not preclude person from obtaining driver's license; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 677**, Relating generally to miners' safety, health, and training standards; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 702**, Relating to involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page 2, section 27-6A-2(a), line 14, by inserting "at a Division of Corrections and Rehabilitation Facility by a qualified forensic evaluator" between "at an outpatient facility" and "or at the office".

The bill was then ordered to third reading.

### Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leave of absence for the day was granted Delegate Booth.

At 12:43 p.m., on motion of Delegate Summers, the House of Delegates recessed until 4:00 p.m.

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### Afternoon Session

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[DELEGATE HOWELL, MR. SPEAKER PRO TEMPORE, IN THE CHAIR]

The House of Delegates was called to order by the Honorable Gary Howell, Speaker Pro Tempore.

At the request of Delegate Summers, and by unanimous consent, the House of Delegates returned to further consideration of **Com. Sub. for S. B. 613**, Adding classification and base salaries of certain civilian employees of State Police Forensic Laboratory.

Delegate Summers moved that the bill take effect July 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 530**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Gearheart, Graves, Statler, Westfall and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the bill (Com. Sub. for S. B. 613) takes effect July 1, 2021.



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

At the request of Delegate Summers, and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

### **Committee Reports**

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

Your Committee on Rules has had under consideration:

**H. R. 24**, Urging the Governor of West Virginia to form a task force regarding Mylan Pharmaceuticals plant in Morgantown,

And reports back a committee substitute therefor, with the same title, as follows:

**Com. Sub. for H. R. 24** – “Urging the Governor of West Virginia to form a task force with our congressional representatives, labor organizations, industry leaders, and economic development representatives to utilize the Morgantown plant at the Chestnut Ridge facility of the former Mylan Pharmaceuticals to produce, manufacture, package, and ship critical, life-saving medical supplies including vaccines, medications, and personal protective equipment, to save the lives of our friends, neighbors, and fellow citizens,”

With the recommendation that the committee substitute be adopted.

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

**By Delegates Higginbotham, Graves, Linville, Espinosa, J. Pack, Skaff and Howell:**

**H. R. 25** - “Support the signing of a Bilateral Trade Agreement (BTA) between the United States and the Republic of China (Taiwan), celebrating the 41st anniversary of the sister-state ties between the State of West Virginia and Taiwan, reaffirming support for Taiwan’s meaningful participation and contributions in international organizations, and for strengthening and expanding sister-state ties between the State of West Virginia and Taiwan.”

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

Your Committee on Rules has had under consideration:

**H. C. R. 102**, A resolution to study attracting and retaining remote workers in West Virginia,

**H. R. 22**, Calling for the construction of an licensed Off Highway Vehicle (OHV) vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side,

**Com. Sub. for S. C. R. 3**, Urging Congress reopen public lands in WV,

And,

**S. C. R. 55**, Supporting Atlantic Coast Pipeline,

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

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

Your Committee on Finance has had under consideration:

**Com. Sub. for S. B. 344**, Relating to credit for qualified rehabilitated buildings investment,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 344) was taken up for immediate consideration, read a first time and ordered to second reading.

### Messages from the Senate

A message from the Senate, by

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

**Com. Sub. for H. B. 2005**, Relating to health care costs.

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

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

#### **“ARTICLE 2. INSURANCE COMMISSIONER.**

##### **§33-2-24. Authority of Insurance Commissioner to enforce No Surprises Act; administrative penalties; injunctive relief; regulatory assistance of other agencies; rulemaking; effective date.**

(a) The Insurance Commissioner shall enforce the applicable provisions of the No Surprises Act (H.R. 133, Public Law 116-260) against health insurers, medical providers, and health care facilities.

(b) Whenever the Insurance Commissioner believes, from evidence satisfactory to him or her, that any insurer, medical provider, or health care facility is violating the applicable provisions of the No Surprises Act, the Commissioner may assess a fine, not to exceed \$10,000 per violation, after notice and hearing pursuant to §33-2-13 of this code. In addition to the administrative penalty available in this subsection, the Insurance Commissioner may cause a complaint to be filed in the appropriate court of this state seeking to enjoin and restrain the insurer, medical provider, or health care facility from continuing the violation or engaging therein or doing any act in furtherance thereof.

(c) The Insurance Commissioner may, at his or her discretion, seek assistance from any other state government agency regarding regulatory enforcement of this section against medical

providers or health care facilities. The Insurance Commissioner may also call upon the Attorney General for legal assistance and representation as provided by law.

(d) The Insurance Commissioner may propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code to effectuate the provisions of this section.

(e) The provisions of this section shall become effective January 1, 2022.”

And,

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

**Com. Sub. for H. B. 2005** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-2-24, relating to health care costs generally; requiring the Insurance Commissioner to enforce the applicable provisions of the No Surprises Act; permitting the Insurance Commissioner to assess a fine for violation of the No Surprises Act; permitting the Insurance Commissioner to seek administrative penalties for violations of the No Surprises Act; permitting the Insurance Commissioner to seek assistance from any other state government agency regarding regulatory enforcement; permitting the Insurance Commissioner to use the Attorney General for legal assistance; permitting rulemaking; and providing effective date.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 531**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Steele.

Absent and Not Voting: Booth, Gearheart, Graves, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 2005) passed.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2017**, Rewriting the Criminal Code.

The bill was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had receded from its amendments, and passed, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 2267**, Establishing an optional bus operator in residence program for school districts.

A message from the Senate, by  
The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect July 1, 2021, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2507**, Remove the limitations on advertising and promotional activities by limited video lottery retailers.

Delegate Kessinger moved the House of Delegates concur in the following amendment of the bill by the Senate:

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

**“ARTICLE 22B. LIMITED VIDEO LOTTERY.**

**§29-22B-404. Advertising by commission or director ~~prohibited~~.**

~~Neither the~~ The commission ~~nor and~~ the director may conduct video lottery advertising or promotional activities to promote or advertise limited video lottery only for the purpose of advising the public as to the use of the revenues generated by video lottery operations authorized by this article.

**§29-22B-702. Additional duties of limited video lottery retailers.**

In addition to the general duties imposed on all licensees in ~~section 22B-704~~ §29-22B-701 of this code, a limited video lottery retailer shall:

(1) Attend all commission mandated meetings, seminars, and training sessions concerning operation of video lottery terminals, the validation and redemption of video lottery winning tickets, and the operation of all ticket validation terminals and equipment;

(2) Maintain all skills necessary for the accurate validation of video lottery tickets;

(3) Supervise video lottery operations and ticket validation procedures at the applicable location;

(4) Permit no person to tamper with or interfere with the operation of any video lottery terminal;

(5) Ensure that telephone lines from the commission's central control computer to the video lottery terminals located at the approved location are at all times connected, and prevent any person from tampering or interfering with the operation of the telephone lines;

(6) Ensure that video lottery terminals are within the sight and control of designated employees of the limited video lottery retailer;

(7) Ensure that video lottery terminals are placed and remain placed in the specific locations which have been approved by the commission. A video lottery terminal in a restricted access adult-only facility may not be relocated within the facility without the prior written approval of the commission;

(8) Monitor video lottery terminals to prevent access to or play by persons who are under the age of 21 years or who are visibly intoxicated;

(9) Maintain at all times sufficient change and cash in the denominations accepted by the video lottery terminals;

(10) Provide no access by a player to an automated teller machine (ATM) in the restricted access adult-only facility where video lottery games are played, accept no credit card or debit card from a player for the exchange or purchase of video lottery game credits or for an advance of coins or currency to be utilized by a player to play video lottery games, and extend no credit, in any manner, to a player so as to enable the player to play a video lottery game;

(11) Pay for all credits won upon presentment of a valid winning video lottery ticket;

(12) Report promptly in writing to the operator and the commission all video lottery terminal malfunctions and notify the commission in writing of the failure of an operator or service technician to provide prompt service and repair of the terminals and associated equipment;

(13) Conduct ~~no~~ any video lottery advertising or promotional activities only in accordance with legislative rules promulgated pursuant to §29A-3-1 et seq. of this code;

~~(14) Not use the words "video lottery" in the name of the approved location, or in any directions or advertising visible from outside the retailer's establishment;~~

~~(15)~~ (14) Install, post, and display prominently within or about the approved location signs, redemption information and other promotional material as required by the commission;

~~(16)~~ (15) Permit video lottery to be played only during those hours established and approved by the commission: *Provided*, That the limited video lottery retailer shall not permit video lottery to be played beyond the hour during which liquor may be served;

~~(17)~~ (16) Contract with no more than one licensed operator for the placement of video lottery terminals at the licensed location;

~~(18)~~ (17) Maintain insurance covering all losses as the result of fire, theft, or vandalism to video lottery terminals and associated equipment; and

~~(19)~~ (18) Comply with all applicable provisions of this article and rules and orders of the commission.

#### **§29-22B-706. Additional duties of operators.**

In addition to the general duties imposed on all licensees in ~~section 22B-701 of this article~~ §29-22B-701 of this code, an operator shall:

(1) Acquire video lottery terminals by purchase, lease, or other assignment only from licensed manufacturers;

(2) Acquire no video lottery terminals in excess of the number they are authorized to operate in this state as stated in the permit issued under part 11 of this article;

(3) Contract with limited video lottery retailers for a secure location for the placement, operation, and play of the video lottery terminals;

(4) Pay no compensation of any kind to any limited video lottery retailer or give or transfer anything of value to any limited video lottery retailer, that is in addition to the consideration stated in the written agreement between the operator and the limited video lottery retailer, which may be not less than 40 percent nor more than 50 percent of the amount of net terminal income received by the operator in connection with the video lottery terminals at that location;

(5) Pay for the installation and operation of commission approved telephone lines to provide direct dial-up or on-line communication between each video lottery terminal and the commission's central control computer;

(6) Purchase or lease and install computer controller units and other associated equipment required by the commission for video lottery terminals owned or leased by the permittee;

(7) Permit no person to tamper with or interfere with the operation of any video lottery terminal;

(8) Ensure that telephone lines from the commission's central control computer to the video lottery terminals located at the approved location are at all times connected, and prevent any person from tampering or interfering with the operation of the telephone lines;

(9) Ensure that video lottery terminals are placed and remain placed in the specific places within the approved restricted access adult-only facility that have been approved by the commission. No video lottery terminal in a restricted access adult-only facility may be relocated within the restricted access adult-only facility without the prior written approval of the commission;

(10) Assume financial responsibility for proper and timely payments by limited video lottery retailers of all credits awarded to players in accordance with legislative rules promulgated by the commission;

(11) Enter into contracts with limited video lottery retailers to provide for the maintenance and repair of video lottery terminals and associated equipment only by licensed service technicians, and to provide for the placement of video lottery terminals pursuant to the provisions of this article;

(12) Conduct ~~no~~ any video lottery advertising and promotional activities only in accordance with legislative rules promulgated pursuant to §29A-3-1 et seq. of this code;

(13) Install, post, and display prominently within or about the approved location signs, redemption information and other material as required by the commission;

(14) Maintain general liability insurance coverage for all video lottery terminals in an amount of at least \$1 million per claim;

(15) Promptly notify the commission in writing of any breaks or tears to any logic unit seals;

(16) Assume liability for all amounts due to the commission in connection with any money lost or stolen from any video lottery terminal;

(17) Comply with all applicable provisions of this article and rules and orders of the commission; and

(18) Maintain a separate bank account into which the operator shall deposit the gross terminal income from all of the operator's video lottery terminals.

PART 12. PLACEMENT AND TRANSPORTATION OF  
VIDEO LOTTERY TERMINALS.

**§29-22B-1201. Placement of video lottery terminals.**

(a) Video lottery terminals allowed by this article may be placed only in licensed limited video lottery locations approved by the commission: ~~Provided, That prior to the approval of the placement of a video lottery terminal operated pursuant to a permit issued after December 31, 2017, the commission shall hold one or more public hearings at which interested persons may express their views on the proposed video lottery locations pursuant to subsection (b) of this section.~~

~~(b) Public Hearing.~~

~~(1) Notice of public hearing. — Notice of the public hearing or hearings shall be published as a Class II legal advertisement at the expense of the permittee, in a form acceptable to the commission, and accordance with the requirements of article three, chapter fifty nine of this code. The published notice shall include, at a minimum:~~

~~(A) The date, time, place and purpose of the public hearing or hearings; and~~

~~(B) The proposed location of a video lottery terminal.~~

~~(c) (b) All video lottery terminals in approved locations shall be physically located as follows:~~

(1) The video lottery terminals shall be continuously monitored through the use of a closed circuit television system capable of identifying players and terminal faces and of recording activity for a continuous 24 hour period. All video tapes or other recording medium approved in writing by the commission shall be retained for a period of at least 60 days and be available for viewing by an authorized representative of the commission or the commissioner of alcohol beverage control. The cost of monitoring shall be paid by the limited video lottery retailer;

(2) Access to video lottery terminal locations shall be restricted to persons legally entitled by age to play video lottery games;

(3) The permittee shall submit for commission approval a floor plan of the area or areas where video lottery terminals are to be operated showing terminal locations and security camera mount location; and

(4) No video lottery terminal or video lottery camera may be relocated without prior written approval from the commission.

~~(d) (c) Personnel of the limited video lottery retailer shall be present during all hours of operation at each video lottery terminal location. These personnel shall make periodic inspections of the restricted access adult-only facility in order to provide for the safe and approved operation of the video lottery terminals and the safety and well-being of the players.~~

~~(e) (d) Security personnel of the commission and investigators of the Alcohol Beverage Control Commissioner shall have unrestricted access to video lottery terminal locations.~~

(f) (e) Notwithstanding any other provision of this article to the contrary, the commission may not approve the placement of a video lottery terminal in a state park.

~~(g) Notwithstanding any other provision of this article to the contrary, during any bidding pursuant to section 1107 of this article occurring after June 30, 2021, the commission shall reduce the number of licensed limited video lottery locations to a number less than one thousand two hundred and fifty.”~~

And,

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

**Com. Sub. for H. B. 2507** – “A Bill to amend and reenact §29-22B-404, §20-22B-702, §29-22B-706, and §29-22B-1201 of the Code of West Virginia, 1931, as amended, all relating to limited video lottery advertising and promotional activities; authorizing the Lottery Commission and its Director to conduct video lottery advertising for a certain limited purpose; authorizing certain video lottery advertising and promotional activities by licensed limited video lottery retailers; authorizing rulemaking by the Lottery Commission with respect to limited video lottery advertising and promotional activities by licensed limited video lottery retailers; removing restriction on use of certain words by licensed limited video lottery retailers; authorizing certain video lottery advertising and promotional activities by licensed limited video lottery operators; authorizing rulemaking by the Lottery Commission with respect to limited video lottery advertising and promotional activities by licensed limited video lottery operators; removing requirements for notice and public hearing prior to approval by Lottery Commission of placement of a video lottery terminal; and removing required reduction on licensed limited video lottery locations.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 532**), and there were—yeas 52, nays 43, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Anderson, Barnhart, Boggs, Bridges, Brown, Bruce, Burkhammer, Conley, Doyle, Fast, Fleischauer, Griffith, Hanna, Hansen, Holstein, D. Jeffries, Jennings, Keaton, D. Kelly, J. Kelly, Kimble, Kimes, Linville, Longanacre, Lovejoy, Mandt, Martin, Mazzocchi, Miller, J. Pack, L. Pack, Phillips, Pinson, Rohrbach, Rowan, Rowe, Steele, Sypolt, Toney, Wamsley, B. Ward, G. Ward and Worrell.

Absent and Not Voting: Booth, Gearheart, Graves, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the motion to concur in the amendment of the bill by the Senate prevailed.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 533**), and there were—yeas 55, nays 40, absent and not voting 5, with the nays and the absent and not voting being as follows:



Nays: Anderson, Barnhart, Boggs, Brown, Bruce, Burkhammer, Conley, Doyle, Fast, Ferrell, Fleischauer, Griffith, Hanna, Hansen, D. Jeffries, Jennings, Keaton, D. Kelly, J. Kelly, Kimble, Kimes, Linville, Longanacre, Lovejoy, Mandt, Martin, Mazzocchi, Miller, J. Pack, L. Pack, Phillips, Pinson, Rohrbach, Rowan, Sypolt, Toney, Wamsley, B. Ward, G. Ward and Worrell.

Absent and Not Voting: Booth, Gearheart, Graves, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members elect having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 2507) passed.

Delegate Kessinger moved that the bill take effect July 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 534**), and there were—yeas 69, nays 26, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Bruce, Burkhammer, Conley, Doyle, Fast, Ferrell, Fleischauer, Hansen, D. Jeffries, Keaton, D. Kelly, Kimble, Kimes, Longanacre, Mandt, Martin, Mazzocchi, Miller, Phillips, Pinson, Rowan, Toney, B. Ward, G. Ward and Worrell.

Absent and Not Voting: Booth, Gearheart, Graves, Westfall and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the bill (Com. Sub. for H. B. 2507) takes effect July 1, 2021.

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

A message from the Senate, by

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

**H. B. 2730**, Relating to persons filing federal bankruptcy petition to exempt certain property of the estate.

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

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

**“ARTICLE 10. TAX LIENS; ORDERS AND DECREES IN BANKRUPTCY.**

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

~~Pursuant to the provisions of 11 U.S.C. §522(b)(1), this state specifically does not authorize debtors who are domiciled in this state to exempt the property specified under the provisions of 11 U.S.C. §522(d).~~

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

(a) The debtor's interest, not to exceed ~~\$25,000~~ \$35,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence or in a burial plot for the debtor or a dependent of the debtor: *Provided*, That when the debtor is a physician licensed to practice medicine in this state under ~~article three or article fourteen, chapter thirty~~ §30-3-1 et seq. or §30-14-1, et seq. of this code, and has commenced a bankruptcy proceeding in part due to a verdict or judgment entered in a medical professional liability action, if the physician has current medical malpractice insurance in the amount of at least \$1 million for each occurrence, the debtor physician's interest that is exempt under this subsection may exceed ~~\$25,000~~ \$35,000 in value but may not exceed \$250,000 per household.

(b) The debtor's interest, not to exceed ~~\$2,400~~ \$7,500 in value, in one motor vehicle.

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

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

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

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

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

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

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

(j) The debtor's right to receive:

(1) A social security benefit, unemployment compensation or a local public assistance benefit;

(2) A veterans' benefit;

(3) A disability, illness or unemployment benefit;

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

(5) A payment under a stock bonus, pension, profit sharing, annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary

for the support of the debtor and any dependent of the debtor, and funds on deposit in an individual retirement account (IRA), including a simplified employee pension (SEP) regardless of the amount of funds, unless:

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

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

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

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

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

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

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

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

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

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

(6) Payments made to the prepaid tuition trust fund or to the savings plan trust fund, including earnings, in accordance with article thirty, chapter eighteen of this code on behalf of any beneficiary.

(l) Solely for the purpose of applying the provisions of 11 U.S.C. § 552(b)(2) in a federal bankruptcy proceeding and only to the extent otherwise allowed by applicable federal law, an individual debtor domiciled in this state may exempt from property the debtor's bankruptcy estate the property specified under 11 U.S.C. § 552(d).

(m) The amendments made to this section during the 2021 session of the Legislature shall apply to bankruptcies filed on or after the effective date of those amendments."

And,

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

**H. B. 2730** – “A Bill to amend and reenact §38-10-4 of the Code of West Virginia, 1931, as amended, relating generally to exemptions of property in bankruptcy; allowing a debtor in bankruptcy to use the federal law exemptions under 11 U.S.C. §522(d); increasing the value of a debtor’s interest in property the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence or in a burial plot for the debtor or a dependent of the debtor to \$35,000; increasing the value of a debtor physician’s interest that is exempt to \$35,000; increasing the value of a debtor’s interest in one motor vehicle to \$7,500; and providing for an effective date.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 535**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Fast.

Absent and Not Voting: Booth, Gearheart, Graves, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker Pro Tempore declared the bill (H. B. 2730) passed.

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

### **Mr. Speaker, Delegate Hanshaw in the Chair**

A message from the Senate, by

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

**Com. Sub. for H. B. 2760**, Relating to economic development incentive tax credits.

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

On page eighteen, after line sixty-six, by adding two new sections, designated sections eight-a and twenty-three-a, to read as follows:

#### **“ARTICLE 21. PERSONAL INCOME TAX.**

##### **§11-21-8a. Credit for qualified rehabilitated buildings investment.**

A credit against the tax imposed by the provisions of this article is allowed as follows:

~~(a)~~ *Certified historic structures.* — For certified historic structures, the credit is equal to 10 percent of qualified rehabilitation expenditures as defined in §47(c)(2), Title 26 of the United States Code, as amended: *Provided*, That for qualified rehabilitation expenditures made after December 31, 2017, pursuant to an historic preservation certification application, Part 2 – Description of Rehabilitation, received by the state historic preservation office after December 31,

2017, the credit allowed by this section is equal to 25 percent of the qualified rehabilitation expenditure, subject to the limitations and other provisions of §11-24-23a of this code: *Provided, however,* That the credit authorized by this section for qualified rehabilitation expenditures made after December 31, 2017, may not be used to offset tax liabilities of the taxpayer prior to the tax year beginning on or after January 1, 2020: *Provided further,* That the taxpayer is not entitled to this credit if, when the applicant begins to claim the credit and throughout the time period within which the credit is claimed, the taxpayer is in arrears in the payment of any tax administered by the Tax Division or the taxpayer is delinquent in the payment of any local or municipal tax, or the taxpayer is delinquent in the payment of property taxes on the property containing the certified historic tax structure when the applicant begins to claim the credit and throughout the time period within which the credit is claimed. The Tax Commissioner shall promulgate procedural rules in accordance with §29A-3-1 *et seq.* of this code that provide what information must accompany any claim for the tax credit for the determination that the taxpayer is not in arrears in the payment of any tax administered by the Tax Division, is not delinquent in the payment of any local or municipal tax, nor is the taxpayer delinquent in the payment of property taxes on the property containing the certified historic tax structure, and such other administrative requirements as the Tax Commissioner may specify. This credit is available for both residential and nonresidential buildings located in this state, that are reviewed by the West Virginia Division of Culture and History and designated by the National Park Service, United States Department of the Interior as “certified historic structures”, and further defined as a “qualified rehabilitated building”, as defined under §47(c)(1), Title 26 of the United States Code, as amended.

~~(b) The tax credit allowed by this section is eliminated after December 31, 2022: *Provided,* That any tax credits authorized by the state historic preservation officer and eligible to be claimed prior to January 1, 2023, shall continue to be eligible to be claimed subject to the provisions of law governing those tax credits that were in effect prior to January 1, 2023~~

(a) Any unused portion of the credit for qualified rehabilitated buildings investment authorized by this section which may not be taken in the taxable year to which the credit applies does not qualify for carryback and carryforward treatment subject to the identical general provisions under § 39, Title 26 of the United States Code, as amended: *Provided,* That the amount of the credit taken in a taxable year shall in no event exceed the tax liability due for the taxable year: *Provided, however,* That for tax years beginning on and after January 1, 2020, any unused portion of the credit authorized by this section may not be carried back to any prior taxable year: *Provided further,* That for tax years beginning on and after January 1, 2020, any unused portion of the credit authorized by this section may be carried over to each of the next 10 tax years following the first tax year for which the credit entitlement is authorized under this article for a specific qualified rehabilitation buildings investment until used to exhaustion or forfeited due to lapse of time.

(b) Effective for taxable years beginning on and after January 1, 2021, credits granted to an electing small business corporation (S corporation), limited partnership, general partnership, limited liability company, or multiple owners of property shall be passed through to the shareholders, partners, members, or owners, either pro-rata or pursuant to an agreement among the shareholders, partners, members, or owners, documenting an alternative distribution method. The Tax Commissioner shall promulgate procedural rules in accordance with §29A-3-1 *et seq.* of this code that provide the method of reporting the alternative method of distribution authorized by this section.

## **ARTICLE 24. CORPORATION NET INCOME TAX.**

### **§11-24-23a. Credit for qualified rehabilitated buildings investment.**

(a) A credit against the tax imposed by the provisions of this article shall be allowed as follows:

*Certified historic structures.* — For certified historic structures, the credit is equal to 10 percent of qualified rehabilitation expenditures as defined in §47(c)(2), Title 26 of the United States Code, as amended: *Provided*, That for qualified rehabilitation expenditures made after December 31, 2017, pursuant to an historic preservation certification application, Part 2 – Description of Rehabilitation, received by the state historic preservation office after December 31, 2017, the credit allowed by this section is equal to 25 percent of the qualified rehabilitation expenditure: *Provided, however*, That the credit authorized by this section for qualified rehabilitation expenditures made after December 31, 2017, may not be used to offset tax liabilities of the taxpayer prior to the tax year beginning on or after January 1, 2020: *Provided further*, That the taxpayer is not entitled to this credit if, when the applicant begins to claim the credit and throughout the time period within which the credit is claimed, the taxpayer is in arrears in the payment of any tax administered by the Tax Division or the taxpayer is delinquent in the payment of any local or municipal tax, or the taxpayer is delinquent in the payment of property taxes on the property containing the certified historic tax structure when the applicant begins to claim the credit and throughout the time period within which the credit is claimed. The Tax Commissioner shall promulgate procedural rules in accordance with §29A-3-1 *et seq.* of this code that provide what information must accompany any claim for the tax credit for the determination that the taxpayer is not in arrears in the payment of any tax administered by the Tax Division, is not delinquent in the payment of any local or municipal tax, nor is the taxpayer delinquent in the payment of property taxes on the property containing the certified historic tax structure, and such other administrative requirements as the Tax Commissioner may specify. This credit is available for both residential and nonresidential buildings located in this state that are reviewed by the West Virginia Division of Culture and History and designated by the National Park Service, United States Department of the Interior as “certified historic building”, and further defined as a “qualified rehabilitated building”, as defined under §47(c)(1), Title 26, of the United States Code, as amended.

~~(b) Allocations and maximum amounts of tax credits per project and per fiscal year~~

~~(1) No more than \$10 million of the tax credits authorized by this section and section eight a, article twenty one of this chapter may be allocated, reserved or issued by the state historic preservation officer to any single certified rehabilitation.~~

~~(2) No more than \$30 million of the tax credits authorized by this section and section eight a, article twenty one of this chapter cumulatively may be issued by the state historic preservation officer for use in any given West Virginia state fiscal year, and any amount remaining up to \$30 million may not be carried over to a subsequent West Virginia state fiscal year.~~

~~(3) At the beginning of each fiscal year, no less than \$5 million of the tax credits authorized by this section and §11-21-8a of this code shall be set aside for reservation and the issuance of tax credits for certified rehabilitation projects with proposed tax credits of \$500,000. The balance of any amount set aside for these projects that has not been reserved pursuant to the procedures in subsection (c) of this section by the end of the fiscal year shall be allocated by the state historic preservation officer for the projects in any amount of other pending applicants otherwise eligible for the issuance of tax credits under this section and section eight a, article twenty one of this chapter in the order that the applications for those projects were received.~~

~~(e) (b) Procedure for issuance of tax credits reservations and certificates by the state historic preservation officer. —~~

(1) Any claim for the tax credits authorized pursuant to this section and §11-21-8a of this code shall be accompanied by a tax credit certificate issued by the state historic preservation officer.

~~(2) The tax credits will be awarded on a first come, first served basis. At the time the historic preservation certification application, Part 2—Description of Rehabilitation, is received by the state historic preservation office, the project will be placed on a reservation list, which will reserve the tax credit amount listed on the application. The historic preservation certification application, Part 2—Description of Rehabilitation, will be reviewed by the state historic preservation office for completion and submitted to the National Park Service for full review. At the time the historic preservation certification application, Part 2 – Description of Rehabilitation, is submitted to the National Park Service, the state historic preservation officer shall send a request for the fee prescribed in subsection (d) of this section to the property owner. Upon approval of the historic preservation certification application, Part 2—Description of Rehabilitation, from the National Park Service, including approval with conditions, that the project will meet the Secretary of the Interior's standards for rehabilitation, the owner of the building will receive guarantee of the tax credits from the state historic preservation office.~~

(3) The state historic preservation officer shall issue tax credit certificates for certified rehabilitation projects that the National Park Service has determined have met the Secretary of the Interior standards for rehabilitation based on the issuance of an approved historic preservation certification application, Part 3 – Request for Certification of Completed Work.

~~(4) Once the state historic preservation officer has allocated and reserved the maximum tax credits authorized for any given West Virginia state fiscal year, the state historic preservation officer then shall allocate and reserve tax credits against the maximum tax credits authorized for use in the succeeding West Virginia state fiscal year.~~

~~(5) If an applicant for tax credits that receives a reservation for tax credits for any given West Virginia state fiscal year fails to submit an approved historic preservation certification application, Part 3—Request for Certification of Completed Work in the instance of a certified rehabilitation within thirty six (36) months of the date of the approved historic preservation certification application, Part 2—Description of Rehabilitation, therefor or in the instance of a phased project as determined by the National Park Service within 60 months of the date of the advisory determination by the National Park Service therefor that such phase has been completed in accordance with the Secretary of the Interior standards for rehabilitation then the state historic preservation officer may reallocate part or all of the tax credits reserved therefor to other applicants in the order their applications were received.~~

~~(d)~~ (c) The state historic preservation officer shall prescribe and publish a form and instructions for an application for reservation and issuance of the tax credits authorized by this section and §11-21-8a of this code.

~~(e)~~ (d) *Application fee.* — Each application for tax credits authorized pursuant to this section and §11-21-8a of this code shall require a fee payable to the state historic preservation officer equal to the lesser of: (1) 0.5% of the amount of the tax credits requested for in such application; and (2) \$10,000. The state historic preservation officer shall review and act on all such applications within 30 days of receipt.

Fees collected under this subsection shall be deposited into a special revenue account which is hereby created. The fund shall be administered by the state historic preservation officer and expended for the purposes of administering the provisions of this section and §11-21-8a of this code.

~~b The tax credit allowed by this section is eliminated after December 31, 2022: *Provided*, That any tax credits authorized by the state historic preservation officer and eligible to be claimed prior to January 1, 2023, shall continue to be eligible to be claimed subject to the provisions of law governing these tax credits that were in effect prior to January 1, 2023.~~

Any unused portion of the credit for qualified rehabilitated buildings investment authorized by this section which may not be taken in the taxable year to which the credit applies shall qualify for carryback and carryforward treatment subject to the identical general provisions under § 39, Title 26 of the United States Code, as amended: *Provided*, That the amount of such credit taken in a taxable year shall in no event exceed the tax liability due for the taxable year: *Provided, however*, That for tax years beginning on and after January 1, 2020, any unused portion of the credit authorized by this section, may not be carried back to any prior taxable year: *Provided further*, That for tax years beginning on and after January 1, 2020, any unused portion of the credit authorized by this section may be carried over to each of the next 10 tax years following the first tax year for which the credit entitlement is authorized under this article for a specific qualified rehabilitation buildings investment until used to exhaustion or forfeited due to lapse of time.”

And,

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

**Com. Sub. for H. B. 2760** – “A Bill to amend and reenact §11-13Q-9, §11-13Q-10, §11-13Q-10a, and §11-13Q-22 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-21-8a of said code; and to amend and reenact §11-24-23a of said code, all relating to economic development incentive tax credits; modifying the economic opportunity tax credit; authorizing the economic opportunity tax credit for the creation of 10 jobs under certain circumstances; eliminating credit to business franchise tax; terminating small business credit after a certain date; authorizing certain manufacturing activities to qualify for high technology manufacturing tax credit; defining terms; limiting certain multiple tax credits for the same qualified investment; striking obsolete reference to prevailing wage requirement; providing effective dates; modifying the credit for qualified rehabilitated buildings investment; eliminating the termination date of the credit; providing for carryback and carryforward provisions for the tax credit; and eliminating the maximum allowable amount of the tax credit.”

### Resolutions Introduced

Delegate Linville offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. R. 26** - “Requesting the Joint Committee on Government and Finance to study the extent to which the COVID-19 pandemic has revealed efficiencies and/or inefficiencies in the executive branch of government of West Virginia, particularly with respect to the manner by which state agencies may be able to reduce their physical footprint and invoke other cost-savings measures as a result of efficiencies and/or inefficiencies which were discovered as a result of the government’s response to the COVID-19 pandemic.”

Whereas, The COVID-19 pandemic has resulted in fewer government employees working out of government-leased and/or government-owned offices; and



Whereas, Certain state agencies have adopted and/or invested in technology which would allow certain employees to work remotely with the same level of integrity and efficiency as if they were working out of a state-run office; and

Whereas, The Legislature expects that certain classes of state jobs and positions could be classified as remote work positions without any loss in productivity or efficiency; and

Whereas, A reduction of certain state agency's physical footprints would result in an overall cost savings to the citizens of West Virginia, therefore, be it

*Resolved by the House of Delegates:*

That the Joint Committee on Government and Finance shall undertake a study of efficiencies and/or inefficiencies which were discovered as a result of the various state agencies' responses to the COVID-19 pandemic; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance shall detail and report to the Legislature what efficiencies and/or inefficiencies state agencies have discovered as a result of their responses to the COVID-19 pandemic; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance shall identify jobs and/or positions which could be reclassified to remote work jobs and/or positions without any loss in productivity or integrity; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance shall identify which state agencies' facilities were under 50 percent occupancy for more than 60 days; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance shall endeavor to identify any other measures which the various state agencies of West Virginia have incorporated as a result of the COVID-19 pandemic and which measures could be extended permanently without any loss in productivity or integrity and at a cost savings to the citizens of West Virginia; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance shall report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions necessary to effectuate its recommendations; and, be it

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

Delegate Summers offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 105** - "Requesting the Joint Committee on Government and Finance study the current process of involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes, as well as the effect of removing the requirement that a determination of medical stability be found prior to admission to a mental health facility."

Whereas, The overcrowding of West Virginia prisons, particularly those persons who struggle with mental health issues, is a problem that requires a hands-on approach for analysis, and

Whereas, Understanding the mental health crisis generally in West Virginia may help produce remedies to stopping this overcrowding and how to better deal with those struggling with mental health issues, and

Whereas, A study of establishing certain time frames for evaluation and competency restoration, developing standards in judicial oversight of appropriate placement of persons found noncompetent and not restorable and not guilty because of mental illness shall be integral in examining this issue; and

Whereas, A study of the effect of the creation of a possible “Dangerousness Assessment Board” to be made up of professionals in psychiatry, psychology, the commission of behavioral health, the state forensic coordinator, a disability advocate, a department of corrections employee with expertise in classification, and a division of rehabilitation services employee with experience in independent living would help shed light on the possible benefits of such a board; and

Whereas, A study to examine the effect of removing the requirement that a licensed physician find an individual is medically stable prior to admission to a mental health facility in every case is also integral to understanding this issue; and

Whereas, Finally, a study of the effect of allowing a magistrate or mental hygiene commissioner to order that the individual be evaluated for a medical condition causing or contributing to the psychiatric presentation or which might significantly impair or preclude psychiatric evaluation or treatment is integral to understanding this issue; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the process of involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes, as well as the effect of removing the requirement that a determination of medical stability be found prior to admission to a mental health facility; and

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions necessary to effectuate its recommendations; and, be it

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

Delegate Summers offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 106** - “Requesting the Joint Committee on Government and Finance study the effect of empowering the West Virginia Sentencing Commission to study the effect of a criminal code rewrite that includes the updated classification of felonies and misdemeanors as drawn out in HB2017, as well as the modification or enactment of sentencing and correctional statutes which the commission finds necessary and advisable.”

Whereas, The House of Delegates passed House Bill 2017, generally known as the “Criminal Code Rewrite” bill, on March 31, 2021; and

Whereas, The Senate amended the bill to require the West Virginia Sentencing Commission to consider, but not be bound to adopt, the provisions of the Second Engrossment of the Committee Substitute for HB2017, as passed by the West Virginia House of Delegates on March 31, 2021, including classifications of felonies and misdemeanors in the proposed Article 17, Chapter 61 of the house bill; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the effect of empowering the West Virginia Sentencing Commission to study the effect of a criminal code rewrite that includes the updated classification of felonies and misdemeanors as drawn out in HB2017, as well as the modification or enactment of sentencing and correctional statutes which the commission finds necessary and advisable; and

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions necessary to effectuate its recommendations; and, be it

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

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

A message from the Senate, by

The Clerk of the Senate, announced passage, without amendment a bill of the House of Delegates, and requested concurrence in the changed effective date, to take effect from passage, of

**Com. Sub. for H. B. 2773**, Permitting DNR to issue up to 100 permits for boats greater than 10 horsepower on Upper Mud River Lake.

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

On this question, the yeas and nays were taken (**Roll No. 536**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Gearheart and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2773) takes effect from its passage.

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

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

**H. B. 2830**, Relating generally to sex trafficking.

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

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

**“CHAPTER 49. CHILD WELFARE.**

**ARTICLE 5. RECORD KEEPING AND DATABASE.**

**§49-5-104. Confidentiality of juvenile records for children who become of age while a ward of the state or who have been transferred to adult criminal jurisdiction; separate and secure location; penalties; damages; accessibility of records for child victims of sex trafficking.**

(a) One year after the juvenile’s 18th birthday, or one year after personal or juvenile jurisdiction has terminated, whichever is later, the records of a juvenile proceeding conducted under this chapter, including, but not limited to, law-enforcement files and records, may be kept in a separate secure confidential place and the records may not be inspected except by order of the circuit court.

(b) The records of a juvenile proceeding in which a juvenile was transferred to criminal jurisdiction pursuant to ~~section seven hundred ten, article four of this chapter~~ §49-4-710 of this code shall be kept in a separate secure confidential place and the records may not be inspected except by order of the circuit court if the juvenile is subsequently acquitted or found guilty only of an offense other than an offense upon which the waiver or order of transfer was based, or if the offense upon which the waiver or order of transfer was based is subsequently dismissed.

(c) To keep the confidentiality of juvenile records, they shall be returned to the circuit court in which the case was pending and be kept in a separate confidential file. The records shall be physically marked to show that they are to remain confidential and shall be securely kept and filed in a manner so that no one can have access to determine the identity of the juvenile, except upon order of the circuit court.

(d) Marking the juvenile records to show they are to remain confidential has the legal effect of extinguishing the offense as if it never occurred.

(e) The records of a juvenile convicted under the criminal jurisdiction of the circuit court pursuant to ~~subdivision (1), subsection (d), section seven hundred ten, article four of this chapter~~ §49-4-710(d)(1) of this code may not be marked and kept as confidential.

(f) Any person who willfully violates this section is guilty of a misdemeanor and, upon conviction ~~thereof~~, shall be fined not more than \$1,000, or confined in jail for not more than six months, or both so fined and confined, and is liable for damages in the amount of \$300 or actual damages, whichever is greater.

(g) Notwithstanding any other provision of this code, the records of a juvenile victim of sex trafficking within the meaning of §61-14-1 et seq. of this code, may be immediately accessible to the juvenile victim upon written request to the circuit court in which a juvenile delinquency case was pending.

## CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

### ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY, AND DECENCY.

#### **§61-8-5. Houses of ill fame and assignation; immunity for minor victims of sex trafficking; penalties; jurisdiction of courts.**

(a) Any person who shall keep, set up, maintain, or operate any house, place, building, hotel, tourist camp, other structure, or part thereof, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall own any place, house, hotel, tourist camp, other structure, or part thereof, or trailer or other conveyance knowing the same to be used for the purpose of prostitution, lewdness, or assignation, or who shall let, sublet, or rent any such place, premises, or conveyance to another with knowledge or good reason to know of the intention of the lessee or rentee to use such place, premises, or conveyance for prostitution, lewdness, or assignation; or who shall offer, or offer to secure, another for the purpose of prostitution, or for any other lewd or indecent act; or who shall receive or offer or agree to receive any person into any house, place, building, hotel, tourist camp, or other structure, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose; or who for another or others shall direct, take, or transport, or offer or agree to take or transport, or aid or assist in transporting, any person to any house, place, building, hotel, tourist camp, other structure, vehicle, trailer, or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing of any acts herein prohibited, shall, upon conviction for the first offense under this section, be punished by imprisonment in the county jail for a period not less than six months nor more than one year, and by a fine of not less than \$100 and not to exceed \$250, and upon conviction for any subsequent offense under this section shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years.

(b) Any person who shall engage in prostitution, lewdness, or assignation, or who shall solicit, induce, entice, or procure another to commit an act of prostitution, lewdness, or assignation; or who shall reside in, enter, or remain in any house, place, building, hotel, tourist camp, or other structure, or enter or remain in any vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing of any of the acts herein prohibited, shall, upon conviction for the first offense under this section, be punished by imprisonment in the county jail for a period of not less than 60 days nor more than six months, and by a fine of not less than \$50 and not to exceed \$100; and upon conviction for the second offense under this section, be punished by imprisonment in the county jail for a period of not less than six months nor more than one year, and by a fine of not less than \$100 and not to exceed \$250, and upon conviction for any subsequent offense under this section shall be punished by ~~imprisonment~~ confinement in the penitentiary a state correctional facility for not less than one year nor more than three years: Provided, That no minor shall be prosecuted nor held criminally liable for an offense of prostitution in violation this subsection if the court determines that the minor is a victim of an offense under §61-14-1 et seq. of this code.

The subsequent offense provision shall apply only to the pimp, panderer, solicitor, operator, or any person benefiting financially or otherwise from the earnings of a prostitute.

(c) All leases and agreements, oral or written, for letting, subletting, or renting any house, place, building, hotel, tourist camp, or other structure which is used for the purpose of prostitution, lewdness, or assignation, shall be void from and after the date of any person who is a party to such an agreement shall be convicted of an offense hereunder. The term "tourist camp" shall include any temporary or permanent buildings, tents, cabins, or structures, or trailers, or other vehicles which are maintained, offered, or used for dwelling or sleeping quarters for pay.

(d) In the trial of any person, charged with a violation of any of the provisions of this section, testimony concerning the reputation or character of any house, place, building, hotel, tourist camp, or other structure, and of the person or persons who reside in or frequent same, and of the defendant or defendants, shall be admissible in evidence in support of the charge. Justices of the peace shall have concurrent jurisdiction with circuit, intermediate, and criminal courts to try and determine the misdemeanors set forth and described in this section.

#### **ARTICLE 14. HUMAN TRAFFICKING.**

##### **§61-14-2. Human trafficking of an individual; aiding and abetting human trafficking; penalties.**

(a) Any person who knowingly and willfully traffics an adult, or who knowingly and willfully aids, assists, or abets in any manner in the trafficking of an adult, is guilty of a felony and, upon conviction ~~thereof~~, shall be ~~imprisoned~~ confined in a state correctional facility for not less than three nor more than 15 years, fined not more than \$200,000, or both ~~imprisoned~~ confined and fined.

(b) Any person who knowingly and willfully traffics a minor, or who knowingly and willfully aids, assists, or abets in any manner in the trafficking of a minor, is guilty of a felony and, upon conviction ~~thereof~~, shall be ~~imprisoned~~ confined in a state correctional facility for not less than five nor more than 20 years, fined not more than \$300,000, or both ~~imprisoned~~ confined and fined.

##### **§61-14-8. Immunity for minor victim of sex trafficking.**

(a) In a prosecution or a juvenile prosecution for an offense of prostitution in violation of ~~subsection (b), section five, article eight of this chapter~~ §61-8-5(b) of this code, a minor shall not be held criminally liable if the court determines that the minor is a victim of an offense under this article: *Provided*, That subject to proof, a minor so charged shall be rebuttably presumed to be a victim under the provisions of this article.

(b) This section does not apply in a prosecution or a juvenile proceeding for any of the other offenses under ~~subsection (b), section five, article eight of this chapter~~ §61-8-5(b) of this code, including specifically soliciting, inducing, enticing, or procuring another to commit an act or offense of prostitution, unless it is determined by the court that the minor was coerced into the criminal behavior.

(c) A minor who, under subsection (a) or (b) of this section, is not subject to criminal liability or adjudication as a juvenile delinquent is presumed to be an abused child, as defined in ~~section two hundred one, article one, chapter forty nine~~ §49-1-201 of this code, and may be eligible for services under chapter 49 of this code including, but not limited to, appropriate child welfare

services including, but not limited to, comprehensive trauma-informed services that are specialized to the needs of child victims of sexual abuse and exploitation or child sex trafficking victims.

**§61-14-9. Petition to vacate and expunge conviction or juvenile delinquency adjudication of sex trafficking victim.**

(a) Notwithstanding the age and criminal history limitations set forth in ~~section twenty-six, article eleven of this chapter §61-11-26 of this code~~ or the provisions in §49-4-103 of this code, an individual convicted of prostitution in violation of ~~subsection (b), section five, article eight of this chapter §61-8-5(b) of this code~~ as a direct result of being a victim of trafficking, may apply by petition to the circuit court in the county of conviction or juvenile adjudication to vacate the conviction or adjudication of juvenile delinquency and expunge the record of conviction or record of adjudication of juvenile delinquency. The court may grant the petition upon a finding that the individual's participation in the offense was a direct result of being a victim of trafficking.

(b) A victim of trafficking seeking relief under this section is not required to complete any type of rehabilitation in order to obtain expungement.

(c) A petition filed under subsection (a) of this section, any hearing conducted on the petition, and any relief granted are subject to the procedural requirements of ~~section twenty-six, article eleven of this chapter §61-11-26 of this code~~; *Provided*, That the age or criminal history limitations in that section and the provisions of §49-4-103 of this code are inapplicable to victims of human trafficking.”

And,

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

**H. B. 2830** – “A Bill to amend and reenact §49-5-104 of the Code of West Virginia, 1931, as amended; to amend and reenact §61-8-5 of said code; and to amend and reenact §61-14-2, §61-14-8, and §61-14-9 of said code, all relating to strengthening sex trafficking laws; allowing for accessibility of juvenile adjudication records for child victims of sex trafficking; providing for immunity from prosecution for child victims of sex trafficking; providing for criminal liability of a person who aids, assists, or abets the trafficking of an adult or child; providing that a child victim of sex trafficking be eligible for comprehensive and specialized trauma-informed child welfare services; and allowing a child victim of sex trafficking to expunge records of conviction or juvenile delinquency adjudication; establishing penalties.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 537**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Gearheart and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2830) passed.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2842**, Preventing cities from banning utility companies in city limits.

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

On page one, section twenty-two, by striking out the section caption and inserting in lieu thereof a new section caption, to read as follows:

**“§8-12-23. Limitations on municipalities, political subdivisions, and local governing bodies’ authority over energy usage and development.”**

And,

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

**Com. Sub. for H. B. 2842** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-12-23, relating to placing limitations on the authority of municipalities, political subdivisions, and local governing bodies generally; forbidding a municipality, political subdivision, or a local governing body to enact any code, ordinance, or land use regulation that would prohibit, have the effect of prohibiting, or regulate in any manner a public utility or department of public utilities from furnishing a utility service to a utility customer based on an energy source which is provided or used by a utility service; forbidding a municipality, political subdivision, or a local governing body to enact any code, ordinance, or land use regulation that would prohibit or regulate a customer of a public utility or department of public utilities from purchasing, using, or connecting or reconnecting to a utility service based on the energy source provided or used by a utility service, forbidding a municipality, political subdivision, or a local governing body to enact any code, ordinance, or land use regulation that would prohibit or regulate a public utility or department of public utilities from utilizing vehicles, equipment, machinery, or tools, to provide utility services to a utility customer based on the energy source used by or powering those vehicles, equipment, machinery, or tools used by the utility service; and defining terms.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 538**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Barach, Pushkin, Thompson and Young.

Absent and Not Voting: Booth, Gearheart and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2842) passed.



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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

**H. B. 2918**, Relating to Family Drug Treatment Court.

A message from the Senate, by

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

**Com. Sub. for H. B. 3254**, Authorizing members of development authorities to accept federally authorized reimbursement for services which the members rendered on a voluntary basis.

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

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

#### **“CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

#### **ARTICLE 12. COUNTY AND MUNICIPAL DEVELOPMENT AUTHORITIES.**

#### **§7-12-5. Compensation of members; expenses; recusal of member from voting where conflict of interest involved.**

(a) No member of the authority shall receive any compensation, whether in formal salary, per diem allowance or otherwise, in connection with his or her services as such member. ~~Each;~~ Provided, That each member shall, however, be entitled to reimbursement by the authority for any necessary expenditures in connection with the performance of his or her general duties as such member. Provided however, That each member may be reimbursed for his or her reasonable and necessary expenses, including but not limited to compensation, in connection with his or her performance of other duties as assigned by the authority in connection with the June 2016 flooding event in West Virginia, if such duties and such reimbursement is first approved by a vote of the authority, with the member to be reimbursed being recused from voting upon the question.

(b) Whenever a person associated with a public utility or bank as set out in section four of this article has a conflict of interest between the board and that public utility or bank, then he or she must recuse himself or herself from any vote, discussion or other activity associated with the board or its members that creates the conflict of interest.

#### **CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

#### **ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.**

#### **§61-10-15. Pecuniary interest of county and district officers, teachers and school officials in contracts; exceptions; offering or giving compensation; penalties.**

(a) It is unlawful for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary, supervisor, superintendent, principal or teacher, he or she may have any voice, influence or control: *Provided*, That nothing in this section prevents or makes unlawful the employment of the spouse of a member, officer, secretary, supervisor, superintendent, principal or teacher as a principal or teacher or auxiliary or service employee in the public schools of any county or prevents or makes unlawful the employment by any joint county and circuit clerk of his or her spouse.

(b) Any person who violates the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and confined.

(c) Any person convicted of violating the provisions of subsection (a) of this section shall also be removed from his or her office and the certificate or certificates of any teacher, principal, supervisor or superintendent so convicted shall, upon conviction thereof, be immediately revoked: *Provided*, That no person may be removed from office and no certificate may be revoked for a violation of the provisions of this section unless the person has first been convicted of the violation.

(d) Any person, firm or corporation that offers or gives any compensation or thing of value or who forebears to perform an act to any of the persons named in subsection (a) of this section or to or for any other person with the intent to secure the influence, support or vote of the person for any contract, service, award or other matter as to which any county or school district becomes or may become the paymaster is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$2,500 and, in the court's discretion, the person or any member of the firm or, if it is a corporation, any agent or officer of the corporation offering or giving any compensation or other thing of value may, in addition to a fine, be confined in jail for a period not to exceed one year.

(e) The provisions of subsection (a) of this section do not apply to any person who is a salaried employee of a vendor or supplier under a contract subject to the provisions of said subsection if the employee, his or her spouse or child:

(1) Is not a party to the contract;

(2) Is not an owner, a shareholder, a director or an officer of a private entity under the contract;

(3) Receives no commission, bonus or other direct remuneration or thing of value by virtue of the contract;

(4) Does not participate in the deliberations or awarding of the contract; and

(5) Does not approve or otherwise authorize the payment for any services performed or supplies furnished under the contract.

(f) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a bank within the county serving or under consideration to serve as a

depository of funds for the county or Board of Education, as the case may be, if the person does not participate in the deliberations or any ultimate determination of the depository of the funds.

(g) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a public utility which is subject to regulation by the Public Service Commission of this state.

(h) Where the provisions of subsection (a) of this section would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship or other substantial interference with the operation of a governmental body or agency, the affected governmental body or agency may make written application to the West Virginia Ethics Commission pursuant to subsection (d), section five, article two, chapter six-b of this code for an exemption from subsection (a) of this section.

(i) The provisions of this section do not apply to publications in newspapers required by law to be made.

(j) No school employee or school official subject to the provisions of subsection (a) of this section has an interest in the sale, proceeds or profits in any book or other thing used or to be used in the free school system of this state, as proscribed in section nine, article XII of the Constitution of West Virginia, if they qualify for the exceptions set forth in subsection (e), (f), (g) or (h) of this section.

(k) The provisions of subsection (a) of this section do not prevent or make unlawful the employment of the spouse of any member of a county commission as a licensed health care provider at government-owned hospitals or other government agencies who provide health care services: *Provided*, That the member of a county commission whose spouse is employed or to be employed may not:

(1) Serve on the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed;

(2) Vote on the appointment of members to the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed; or

(3) Seek to influence the hiring or promotion of his or her spouse by the government-owned hospital or other government agency who provides health care services.

(l) The provisions of subsection (a) of this section do not make unlawful the employment of a spouse of any elected county official by that county official: *Provided*, That the elected county official may not:

(1) Directly supervise the spouse employee; or

(2) Set the salary of the spouse employee: *Provided*, That the provisions of this subsection shall only apply to spouse employees who were neither married to nor engaged to the elected county official at the time of their initial hiring.

(m) The provisions of subsection (a) of this section do not prohibit reimbursement of a member of a development authority established under §7-12-1 et seq. of this code for:

(1) His or her necessary expenditures in connection with the performance of his or her general duties as such member, as permitted by §7-12-5(a) of this code; or

(2) His or her reasonable and necessary expenses, including but not limited to compensation, in connection with his or her performance of other duties as assigned by the authority in connection with the June 2016 flooding event in West Virginia, if such duties and such reimbursement is first approved by a vote of the authority, with the member to be reimbursed being recused from voting upon the question, as permitted by §7-12-5(a) of this code.”

And,

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

**Com. Sub. for H. B. 3254** – “A Bill to amend and reenact §7-1-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-10-15 of said code, all relating to reimbursement of members of county and municipal development authorities; providing that a member of a county or municipal development authority may be reimbursed for certain necessary expenses in connection with his or her performance of certain other duties authorized by the authority; providing that such other duties and such reimbursement must first be approved by a vote of the authority with the member to be reimbursed being recused from voting on the question; and providing that the prohibition against certain public officers and officials with any voice, influence, or control with respect to certain contracts becoming pecuniarily interested in such contracts does not apply to certain members of a county or municipal development authority who receive certain reimbursements from such authority.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 539**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Kimes.

Absent and Not Voting: Booth, Gearheart and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3254) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

**H. B. 3286**, Making a supplementary appropriation to the Division of Human Services – Child Care and Development.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

**H. B. 3287**, Making a supplementary appropriation to the Department of Homeland Security.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

**H. B. 3289**, Supplementary appropriation to the Department of Commerce, Geological and Economic Survey.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

**H. B. 3291**, Making a supplementary appropriation to the Department of Homeland Security, Division of Administrative Services.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

**H. B. 3292**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

**H. C. R. 24**, Urging Congress to extend federal tax incentives to participants in Jumpstart Savings programs that are similar to those that are currently provided to participants in College Savings plans, pursuant to 26 U.S.C. §529.

A message from the Senate, by

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

**Com. Sub. for S. B. 387**, Relating to drug screening of applicants for cash assistance.

A message from the Senate, by

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

**Com. Sub. for S. B. 392**, Creating penalty for impersonating law-enforcement officer or official.

A message from the Senate, by

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

**Com. Sub. for S. B. 626**, Updating regulation for purchase of automobile catalytic converters.

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

On page four, section forty-nine, subsection (k), subdivision (1), after the words “accompanying the vehicle” by inserting the words “or motor vehicles”;

On page seven, section forty-nine-c, subsection (c), after the word “converter” by inserting the words “in this state”;

And,

On page seven, section forty-nine-c, subsection (c), by striking out the word “considered”.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 540**), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Hardy, Horst, Howell and Paynter.

Absent and Not Voting: Booth, Dean, Gearheart and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 626) passed.

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

### **Messages from the Executive**

Delegate Hanshaw (Mr. Speaker) presented communications from His Excellency, the Governor, advising that on April 8, 2021, he approved **Com. Sub. for S. B. 275** and **H. B. 2499**.

The following communications were laid before the House and reported by the Clerk as follows:

STATE OF WEST VIRGINIA  
Jim Justice  
Governor of West Virginia

April 8, 2021

### **Executive Message 2 2021 Regular Session**

The Honorable Roger Hanshaw  
Speaker, West Virginia House of Delegates  
State Capitol, Rm 228M  
Charleston, WV 25305

Dear Mr. Speaker:

Pursuant to the provisions of section twenty, article one, chapter five of the Code of West Virginia, I hereby certify that the following annual reports have been received in the Office of the Governor:

211, West Virginia; 2020 Impact Report

Administration, West Virginia Department of; Real Estate Division "2020 Real Property and Lease Report"

Administration, West Virginia Department of; "Comprehensive Annual Financial Report for the

Fiscal Year Ended June 30, 2020"

Administration, West Virginia Department of; State Building Commission Fund

Agriculture, West Virginia Department of; 2020 Annual Report

Agriculture, West Virginia Department of; Annual Report for the WV Farms-to Food Bank Tax Credit for calendar years 2019 and 2020

American Bar Foundation; 2019 Annual Report

Architects, West Virginia Board of; Annual Report FY 2020 & FY 2019

Attorney General's Office, West Virginia; "Seventy-Eighth Biennial Report and Official Opinions of the Attorney General of the State of West Virginia for the Fiscal Years Beginning July 1, 2018 and ending June 30, 2020"

Attorney General's Office, West Virginia; "2020 Annual Report on the Activities of the Consumer Protection and Antitrust Division"

Attorney General's Office, West Virginia; Annual Report 2020

Barbers and Cosmetologists, State of West Virginia Board of; 2020 Annual Report

Board of Pharmacy, West Virginia; Annual Report on the West Virginia Controlled Substances Monitoring Program

Broadband Enhancement Council, West Virginia; 2020 Annual Report

Chiropractic Examiners, State of West Virginia Board of; Biennium Report July 1, 2018 to June 30, 2020

Coal Mine Health and Safety, State of West Virginia Board of; 2020 Annual Report

Commerce, West Virginia Department of; Tourism Development Act Report 2020

Commerce, West Virginia Department of; FY20 TIF Annual Report

Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee; 2020 Annual Report

Community Action of South Eastern West Virginia, Inc. (CASEWV); 2021 CASEWV Annual Report for its Head Start and Early Head Start Programs

Consolidated Public Retirement Board; West Virginia State Police Disability Experience Annual Report Fiscal Year 2020

Consolidated Public Retirement Board, West Virginia; 2020 Comprehensive Annual Financial Report

Consumer Advocate, Office of the West Virginia; Consumer Advocate Division 2021 Annual Report

Counseling, State of West Virginia Board of Examiners in; Biennium Report July 1, 2018-June 30, 2020

Dentistry, West Virginia Board of; Report of the Biennium for Fiscal Years 2019 & 2020

Development Office, West Virginia; Annual Report 2019

Development Office, West Virginia; FY 2019 Neighborhood Investment Program Annual Report

Development Office, West Virginia; 2018 Final Report on the Assessment 2015-2017

Engineers, West Virginia State Board of Registration for Professional; Annual Report FY2020

Environmental Protection, West Virginia Department of; 2020 Monthly and Year to Date OOG Permit Issuance Averages

Equal Employment Opportunity, West Virginia; 2020 Annual Report

Fire Commission, West Virginia State; FY 2020 Annual Report

Fire Marshal's Office, West Virginia State; FY 2020 Annual Report

Forestry, West Virginia Division of; Outdoor Heritage Conservation Funding Annual Report

Forestry, West Virginia Division of; 2020 Stewardship Projects Annual Report

Forestry, West Virginia Division of; Report on Managed Timberland Program

Government Accountability, Foundation for; 2019 Annual Report

Grievance Board, Public Employees; 2020 Annual Report

Health and Human Resources, West Virginia Department of; Annual Report on the Olmstead Plan July 1, 2019-June 30, 2020



Health and Human Resources, West Virginia Department of; "Family Protection Services Board 2020 Annual Report July 1, 2019-June 30, 2020"

Health and Human Resources, West Virginia Department of; Office of Maternal, Child and Family Health (West Virginia Birth Defects) Calendar Years 2018 and 2019 (January-December)

Health and Human Resources, West Virginia Department of; Bureau for Public Health- West Virginia Office of Medical Cannabis Biennial Report 2021

Health and Human Resources, West Virginia Department of; Bureau for Behavioral Health- West Virginia Family & Community Support Program FY 2020 Annual Report

Health and Human Resources, West Virginia Department of; West Virginia Women's Commission 2020 Annual Report

Highways, West Virginia Division of; Annual Report (The Complete Streets Advisory Board)

Homeland Security, West Virginia Department of; Accomplishments 2017-2020 Report

Human Rights Commission, West Virginia; Annual Report 2020

Independent Living Council, West Virginia Statewide; "The State of Education for Children with Disabilities in West Virginia-Education Task Force; Annual Report 2019-2020"

Insurance Commissioner, State of West Virginia Offices of the; Occupational Pneumoconiosis Board 2019-2020 Annual Report

Insurance Commissioner, State of West Virginia Offices of the; West Virginia State Agency Workers' Compensation Annual Report

Insurance Commissioner, State of West Virginia Offices of the; 2019-2020 Annual Report

Insurance Commissioner, State of West Virginia Offices of the; Consumer Advocate Annual Report

Insurance Commissioner, State of West Virginia Offices of the; 2020 Annual Medical Malpractice Report

Judicial Compensation Commission, West Virginia; Report of the Judicial Compensation Commission 2020

Justice and Community Services, Division of Administrative; "Justice Reinvestment Initiative S.B. 371 July 1, 2019-June 30, 2020 Annual Report"

Justice and Community Services, Division of Administrative; "Juvenile Justice Subcommittee September 1, 2019-August 31, 2020 Annual Report"

Justice and Community Services, Division of Administrative; "Sexual Assault Forensic Examination (SAFE) Commission Annual Report September 1, 2019-August 31, 2020"

Justice and Community Services, Division of Administrative; "West Virginia Community Corrections Act July 1, 2019-June 30, 2020 Annual Report"

Justice and Community Services, Division of Administrative; "Law Enforcement Professional Standards (LEPS) Subcommittee/Program July 1,2019-June 30, 2020"

Land Trust, West Virginia; Annual Report 2019

Legislative Claims Commission, West Virginia; Supplemental Report December 2020

Legislative Claims Commission, West Virginia; November 2020 Report of the Legislative Claims Commission

Lottery, West Virginia; "Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2019 and 2018"

Lottery, West Virginia; 2020 Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2020 and 2019

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending February 29, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending March 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending April 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending May 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending June 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending July 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending August 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending September 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending October 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending November 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending December 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending January 31, 2021

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending February 28, 2021

Medical Imaging and Radiation Therapy Technology Board of Examiners, West Virginia; Annual Report 2020

Municipal Bond Commission, West Virginia; Annual Summary of Receipts and Disbursements July 1, 2019-June 30, 2020

National Coal Heritage Area Authority; 2020 Annual Report

Natural Resources, West Virginia Division of; 2019-2020 West Virginia Division of Natural Resources Annual Report

Nursing Home Administrators Licensing Board; Annual Report 2020

Occupational Therapy, West Virginia Board of; Annual Report 2019-2020

Osteopathic Medicine, West Virginia School of; Annual Report

Privacy Office, West Virginia State; 2018-2019 Annual Report

Psychologists, West Virginia Board of; 2019-2020 Annual Report

Public Service Commission, West Virginia; State of West Virginia Public Utility Assessments Tax Year 2021

Public Service Commission, West Virginia; 2020 Management Summary Report and the Electric and Natural Gas Utilities Supply-Demand Forecasts for 2021-2030

Public Transit, West Virginia Division of Transportation/Division; 2019 Annual State Safety Oversight Report to the Governor

Regional Councils, West Virginia Association of; 2019 Annual Report

Regional Intergovernmental Council; 2020 Annual Report Boone, Clay, Kanawha and Putnam

Risk and Insurance Management, State of West Virginia Department of Administration; BRIM Annual Report 2020

Ron Yost Personal Assistance Services; 2020 Annual Report

Southern States Energy Board; Annual Report 2020

Tax Department, West Virginia State; "Manufacturing Property Tax Adjustment Credit Report to the Joint Committee on Government and Finance July 1, 2020"

Tax Department, West Virginia State; Tax Credit Review and Accountability Report for the West Virginia Economic Opportunity Tax Credit and the West Virginia Manufacturing Investment Tax Credit

Tax Department, West Virginia State; West Virginia Tax Expenditure Study for 2021

Transportation, West Virginia Department of; Division of Public Transit- State Safety Oversight Program-2020 Annual Safety Report to the Governor

Transportation, West Virginia Department of; The Office of Administrative Hearings Annual Report Fiscal Year 2020

Transportation, West Virginia Department of; Aeronautics Commission 2020 Annual Report to the Governor

Treasurer, West Virginia State; Cash Management Improvement Act CIMA Annual Report for fiscal years 2020

Treasury Investments, West Virginia Board of; "Audited Financial Statements with Supplementary & Other Financial Information Year Ended 6/30/20"

Treasury Investments, West Virginia Board of; Comprehensive Annual Financial Report Fiscal Year Ended

Veterinary Medicine, West Virginia Board of; Biennium Report 2019 and 2020

Water Development Authority, West Virginia; 2020 Annual Report

Water Sanitation Commission, Ohio River Valley; Annual Report

Sincerely,

Jim Justice,  
*Governor.*

STATE OF WEST VIRGINIA  
Jim Justice  
Governor of West Virginia

April 8, 2021

**EXECUTIVE MESSAGE NO. 3  
2021 REGULAR SESSION**

The Honorable Roger Hanshaw  
Speaker, West Virginia House of Delegates  
State Capitol, Rm 228M  
Charleston, WV 25305

Dear Mr. Speaker:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of March 7, 2020 through April 7, 2021.

Very truly yours,

Jim Justice,  
*Governor.*

In the absence of objection, the House returned to the Seventh Order of Business for the purpose of introducing resolutions.

### **Resolutions Introduced**

Delegate Linville offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. R. 26** - "Requesting the Joint Committee on Government and Finance to study the extent to which the COVID-19 pandemic has revealed efficiencies and/or inefficiencies in the executive branch of government of West Virginia, particularly with respect to the manner by which state agencies may be able to reduce their physical footprint and invoke other cost-savings measures as a result of efficiencies and/or inefficiencies which were discovered as a result of the government's response to the COVID-19 pandemic."

Whereas, The COVID-19 pandemic has resulted in fewer government employees working out of government-leased and/or government-owned offices; and

Whereas, Certain state agencies have adopted and/or invested in technology which would allow certain employees to work remotely with the same level of integrity and efficiency as if they were working out of a state-run office; and

Whereas, The Legislature expects that certain classes of state jobs and positions could be classified as remote work positions without any loss in productivity or efficiency; and

Whereas, A reduction of certain state agency's physical footprints would result in an overall cost savings to the citizens of West Virginia; therefore, be it

*Resolved by the House of Delegates:*

That the Joint Committee on Government and Finance shall undertake a study of efficiencies and/or inefficiencies which were discovered as a result of the various state agencies' responses to the COVID-19 pandemic; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance shall detail and report to the Legislature what efficiencies and/or inefficiencies state agencies have discovered as a result of their responses to the COVID-19 pandemic; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance shall identify jobs and/or positions which could be reclassified to remote work jobs and/or positions without any loss in productivity or integrity; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance shall identify which state agencies' facilities were under 50 percent occupancy for more than 60 days; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance shall endeavor to identify any other measures which the various state agencies of West Virginia have incorporated as a result of the COVID-19 pandemic and which measures could be extended permanently without any loss in productivity or integrity and at a cost savings to the citizens of West Virginia; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance shall report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions necessary to effectuate its recommendations; and, be it

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

Delegate Summers offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 105** - "Requesting the Joint Committee on Government and Finance study the current process of involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes, as well as the effect of removing the requirement that a determination of medical stability be found prior to admission to a mental health facility."

Whereas, The overcrowding of West Virginia prisons, particularly those persons who struggle with mental health issues, is a problem that requires a hands-on approach for analysis, and

Whereas, Understanding the mental health crisis generally in West Virginia may help produce remedies to stopping this overcrowding and how to better deal with those struggling with mental health issues, and

Whereas, A study of establishing certain time frames for evaluation and competency restoration, developing standards in judicial oversight of appropriate placement of persons found noncompetent and not restorable and not guilty because of mental illness shall be integral in examining this issue; and

Whereas, A study of the effect of the creation of a possible "Dangerousness Assessment Board" to be made up of professionals in psychiatry, psychology, the commission of behavioral health, the state forensic coordinator, a disability advocate, a department of corrections employee with expertise in classification, and a division of rehabilitation services employee with experience in independent living would help shed light on the possible benefits of such a board; and

Whereas, A study to examine the effect of removing the requirement that a licensed physician find an individual is medically stable prior to admission to a mental health facility in every case is also integral to understanding this issue; and

Whereas, Finally, a study of the effect of allowing a magistrate or mental hygiene commissioner to order that the individual be evaluated for a medical condition causing or contributing to the psychiatric presentation or which might significantly impair or preclude psychiatric evaluation or treatment is integral to understanding this issue; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the process of involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes, as well as the effect of removing the requirement that a determination of medical stability be found prior to admission to a mental health facility; and

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions necessary to effectuate its recommendations; and, be it

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

Delegate Summers offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 106** - "Requesting the Joint Committee on Government and Finance study the effect of empowering the West Virginia Sentencing Commission to study the effect of a criminal code rewrite that includes the updated classification of felonies and misdemeanors as drawn out in HB2017, as well as the modification or enactment of sentencing and correctional statutes which the commission finds necessary and advisable."

Whereas, The House of Delegates passed House Bill 2017, generally known as the "Criminal Code Rewrite" bill, on March 31, 2021; and

Whereas, The Senate amended the bill to require the West Virginia Sentencing Commission to consider, but not be bound to adopt, the provisions of the Second Engrossment of the Committee Substitute for HB2017, as passed by the West Virginia House of Delegates on March 31, 2021, including classifications of felonies and misdemeanors in the proposed Article 17, Chapter 61 of the house bill; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the effect of empowering the West Virginia Sentencing Commission to study the effect of a criminal code rewrite that includes the updated classification of felonies and misdemeanors as drawn out in HB2017, as well as the modification or enactment of sentencing and correctional statutes which the commission finds necessary and advisable; and

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions necessary to effectuate its recommendations; and, be it

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

**Miscellaneous Business**

The House of Delegates met after the evening floor session on Wednesday, April 7, 2021 for **Remarks by Members**, in accordance with House Rule 65. The Honorable Gary Howell, Speaker Pro Tempore, called the House to order and presided while several members proceeded to make remarks. At 5:55 p.m., Remarks by Members was adjourned.

At 4:41 p.m., the House of Delegates adjourned until 10:00 a.m., Friday, April 9, 2021.

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



**SPECIAL CALENDAR**

**Friday, April 9, 2021**

**59<sup>th</sup> Day**

**10:00 A. M.**

**UNFINISHED BUSINESS**

- Com. Sub. for S. C. R. 3 - Urging Congress reopen public lands in WV
- S. C. R. 55 - Supporting Atlantic Coast Pipeline
- H. R. 22 - Calling for the construction of an licensed Off Highway Vehicle (OHV) vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side
- Com. Sub. for H. R. 24 - Urging the Governor of West Virginia to form a task force regarding Mylan Pharmaceuticals plant in Morgantown
- H. R. 25 - Support the signing of a Bilateral Trade Agreement (BTA) between the United States and the Republic of China (Taiwan)
- H. C. R. 95 - Requesting Joint Committee and Government and Finance study the effect losing a Congressional district would have on boards, commissions and others
- H. C. R. 102 - A resolution to study attracting and retaining remote workers in West Virginia.
- H. C. R. 103 - Interim study to improve the education system in West Virginia

### THIRD READING

- Com. Sub. for S. B. 7 - Limiting political activity by public employees (CAPITO) (REGULAR)
- Com. Sub. for S. J. R. 9 - Disabled Veterans' Exemption from Ad Valorem Property Taxation Amendment (CAPITO) [JUDICIARY COMMITTEE AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for S. J. R. 11 - Constitutional Officer Term Limit Amendment (CAPITO) [JUDICIARY COMMITTEE AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for S. B. 34 - Creating exemption to state sales and use tax for rental and leasing of equipment (HARDY) (JULY 1, 2021)
- Com. Sub. for S. B. 332 - Providing procedure for WV to select delegates to Article V Convention (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for S. B. 334 - Establishing license application process for needle exchange programs (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for S. B. 398 - Limiting eligibility of certain employers to participate in PEIA plans (ROHRBACH) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 464 - Requiring composting of organic materials and commercial composting products comply with WV Fertilizer Law (CAPITO) (REGULAR)

- Com. Sub. for S. B. 470 - Limiting release of certain personal information maintained by state agencies (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for S. B. 478 - Permitting use of established federal marketplace programs to purchase supplies (STEELE) (REGULAR)
- Com. Sub. for S. B. 485 - Relating to use or presentation of firearm during commission of felony (CAPITO) (REGULAR)
- Com. Sub. for S. B. 492 - Establishing program for bonding to reclaim abandoned wind and solar generation facilities (ANDERSON) (REGULAR) [AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for S. B. 502 - Providing lifetime hunting, fishing, and trapping license to residents, adopted, and foster children under 15 (HOTT) (EFFECTIVE FROM PASSAGE)
- S. B. 532 - Limiting claims for state tax credits and rebates (LINVILLE) (REGULAR)
- S. B. 537 - Relating generally to kidnapping (CAPITO) (REGULAR)
- Com. Sub. for S. B. 542 - Relating generally to public electric utilities and facilities fuel supply for existing coal-fired plants (ANDERSON) (REGULAR) [AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for S. B. 569 - Relating to damages for medical monitoring (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING] [RIGHT TO AMEND]

- Com. Sub. for S. B. 641 - Allowing counties to use severance tax proceeds for litter cleanup programs (STEELE) (JULY 1, 2021)
- Com. Sub. for S. B. 642 - Requiring legal advertisements by State Auditor be posted to central website (HARDY) (REGULAR)
- Com. Sub. for S. B. 655 - Eliminating sunset and legislative audit provisions for certain PSC rules (STEELE) (REGULAR)
- Com. Sub. for S. B. 657 - Relating to free expression on state institution of higher education campuses (CAPITO) (REGULAR)
- Com. Sub. for S. B. 658 - Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children (CAPITO) (REGULAR)
- Com. Sub. for S. B. 660 - Providing for cooperation between law-enforcement agencies and military authorities (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING] [AMENDMENT PENDING]
- S. B. 661 - Permitting retailers to assume sales or use tax assessed on tangible personal property (CRISS) (JULY 1, 2021)
- S. B. 674 - Clarifying that unpaid restitution does not preclude person from obtaining driver's license (CAPITO) (REGULAR)
- Com. Sub. for S. B. 677 - Relating generally to miners' safety, health, and training standards (CAPITO) (REGULAR)

Com. Sub. for S. B. 702 - Relating to involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes (CAPITO) (REGULAR)

**SECOND READING**

Com. Sub. for S. B. 344 - Relating to credit for qualified rehabilitated buildings investment (HOUSEHOLDER) (JULY 1, 2021) [FINANCE COMMITTEE AMENDMENT PENDING]



## HOUSE CALENDAR

Friday, April 9, 2021

59<sup>th</sup> Day

10:00 A. M.

### THIRD READING

- Com. Sub. for S. B. 562 - Relating to juvenile competency proceedings (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for H. B. 2224 - Relating to complaints against public agencies to obtain records through the Freedom of Information Act (CAPITO) (REGULAR) [RIGHT TO AMEND]
- H. B. 2741 - Relating to expansion of the alcohol test and lock program to offenders with a drug related offense (CAPITO) (REGULAR)
- H. B. 3306 - Relating to virtual instruction (ELLINGTON) (REGULAR)

### SECOND READING

- Com. Sub. for S. B. 314 - Regulating pawnbrokers (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 368 - Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program (RILEY) (JULY 1, 2021) [FINANCE COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 509 - Removing requirement that determination of medical stability be found prior to admission to mental health facility (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 585 - Requiring BOE create and provide course in family and consumer sciences in secondary schools (ELLINGTON) (REGULAR)
- Com. Sub. for S. B. 610 - Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV (HOUSEHOLDER) (REGULAR) [FINANCE COMMITTEE AMENDMENT PENDING]
- S. B. 710 - Requiring impact statement in certain instances of school closing or consolidation (ELLINGTON) (REGULAR) [EDUCATION COMMITTEE AMENDMENT PENDING]
- S. B. 718 - Relating generally to Coal Severance Tax Rebate (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)

- Com. Sub. for H. B. 2004 - Permit a licensed health care professional from another state to practice in this state through telehealth when registered with the appropriate West Virginia board (J. PACK) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2015 - Requiring rules of local boards of health to be approved by the county commission except in cases of a public health emergency (J. PACK) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2177 - Permitting the issuance of a state issued identification card without a photo on the card under certain conditions (STEELE) (REGULAR)
- H. B. 2536 - Relating to expressions of legislative intent regarding equivalent instruction time (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 2628 - Relating to the removal of the prohibition on having ATMs in the area where racetrack video lottery machines are located (CAPITO) (REGULAR)
- H. B. 2721 - Providing electronic notice of school attendance and satisfactory progress to the Division of Motor Vehicles in lieu of requiring each student to provide a paper notice (STEELE) (REGULAR)
- Com. Sub. for H. B. 2959 - Relating to the financing of environmental pollution control equipment for coal-fired power plants (ANDERSON) (REGULAR)
- Com. Sub. for H. B. 3009 - Relating to the publication of county board financial statements (ELLINGTON) (REGULAR)
- H. B. 3079 - Relating to exempting recovery residences from certain standards (J. PACK) (REGULAR)
- H. B. 3131 - Relating to correcting internal code references and citations (CAPITO) (REGULAR)
- H. B. 3305 - Relating to required course of study (ELLINGTON) (REGULAR)
- H. B. 3309 - Creating and funding a Video Lottery Terminals Modernization Fund (HOUSEHOLDER) (REGULAR)

#### **FIRST READING**

- H. B. 2582 - Relating to creating a third set of conditions for the professional teaching certificate (ELLINGTON) (REGULAR)
- H. B. 2590 - Relating to the West Virginia Employment Law Worker Classification Act (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2620 - Relating to a departmental study of the child protective services and foster care workforce (J. PACK) (REGULAR)
- H. B. 2719 - Relating to the Division of Motor Vehicles use of electronic means and other alternate means to provide notice (STEELE) (REGULAR)



H. B. 3059 - Making contract consummation with state more efficient (STEELE)  
(REGULAR)

Com. Sub. for H. B. 3102 - Requiring Director of transportation to have experience in  
transportation department (ELLINGTON) (REGULAR)



**WEST VIRGINIA  
HOUSE OF DELEGATES**

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**FRIDAY, APRIL 9, 2021**

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**HOUSE CONVENES AT 10:00 A.M.**

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**COMMITTEE ON RULES  
9:45 A.M. – ROOM 434 M**

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