

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE  
REGULAR SESSION, 2021  
FIFTY-EIGHTH DAY

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Charleston, West Virginia, Thursday, April 8, 2021

The Senate met at 11:15 a.m.

(Senator Blair, Mr. President, in the Chair.)

Prayer was offered by the Honorable Robert D. Beach, a senator from the thirteenth district.

At the request of Senator Beach, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of the victims of the Holocaust.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael A. Woelfel, a senator from the fifth district.

Pending the reading of the Journal of Wednesday, April 7, 2021,

At the request of Senator Woodrum, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, of

**Eng. Com. Sub. for Senate Bill 375**, Relating to county boards of education policies for open enrollment.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 387**, Relating to drug screening of applicants for cash assistance.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page two, section six, line twenty-seven, by striking out “2022” and inserting in lieu thereof “2026”.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 387, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel—11.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 387) passed with its title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 392**, Creating penalty for impersonating law-enforcement officer or official.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page one, line ten, after the words “Department of” by striking out the words, “Military Affairs and Public Safety” and inserting in lieu thereof the words, “Homeland Security”.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 392, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 392) passed with its title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, of

**Eng. Com. Sub. for Senate Bill 439**, Allowing use or nonuse of safety belt as admissible evidence in civil actions.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Com. Sub. for Senate Bill 483**, Allowing oaths be taken before any person authorized to administer oaths.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Senate Bill 496**, Relating to punishment for second or third degree felony.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 626**, Updating regulation for purchase of automobile catalytic converters.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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

### **ARTICLE 3. CRIMES AGAINST PROPERTY.**

#### **§61-3-49. Purchase of scrap metal by scrap metal purchasing businesses, salvage yards, or recycling facilities; certificates, records, and reports of such purchases; criminal penalties.**

(a) For the purposes of this section, the following terms have the following meanings:

(1) "Business registration certificate" has the same meaning ascribed to it in §11-12-2 of this code.

(2) "Purchaser" means any person in the business of purchasing scrap metal or used auto parts, any salvage yard owner or operator, or any public or commercial recycling facility owner or operator, or any agent or employee thereof, who purchases any form of scrap metal or used auto parts.

(3) "Scrap metal" means any form of copper, aluminum, brass, lead, or other nonferrous metal of any kind, a catalytic converter, or any materials derived from a catalytic converter, or steel railroad track and track material.

(b) In addition to any requirement necessary to do business in this state, a scrap metal dealer shall:

(1) Have a current valid business registration certificate from the Tax Commissioner;

(2) Register any scales used for weighing scrap metal with the Division of Labor Weights and Measures ~~office~~;

(3) Provide a notice of recycling activity to the Department of Environmental Protection; and

(4) Register as a scrap metal dealer with the Secretary of State, who ~~is hereby directed to~~ shall maintain a list of scrap metal dealers and make it ~~publically~~ publicly available. The list shall include the dealer's business address, hours of operation, physical address, phone number, facsimile number, if any, and the name of the owners or principal officers of the business.

(c) Any purchaser of scrap metal shall make a record of such purchase that shall contain the following information for each transaction:

(1) The full name, permanent home and business addresses, and telephone number, if available, of the seller;

(2) A description and the motor vehicle license number of any vehicle used to transport the purchased scrap metal to the place of purchase;

(3) The time and date of the transaction;

(4) A complete description of the kind, character, and weight of the scrap metal purchased; and

(5) A statement of whether the scrap metal was purchased, taken as collateral for a loan, or taken on consignment.

(d) A purchaser also shall require and retain from the seller of the scrap metal the following:

(1) A signed certificate of ownership of the scrap metal being sold or a signed authorization from the owner of the scrap metal to sell ~~said~~ the scrap metal; and

(2) A photocopy of a valid driver's license or identification card issued by the West Virginia Division of Motor Vehicles of the person delivering the scrap metal, or in lieu thereof, any other valid photo identification of the seller issued by any other state or the federal government: *Provided*, That, if the purchaser has a copy of the seller's valid photo identification on file, the

purchaser may reference the identification that is on file, without making a separate photocopy for each transaction.

(e) It is unlawful for any purchaser to purchase any scrap metal without obtaining and recording the information required under subsections (c) and (d) of this section. The provisions of this subsection do not apply to purchases made at wholesale under contract or as a result of a bidding process: *Provided*, That the purchaser retains and makes available for review consistent with subsection (g) of this section the contract, bill of sale, or similar documentation of the purchase made at wholesale under contract or as a result of a bidding process: *Provided, however*, That the purchaser may redact any pricing or other commercially sensitive information from ~~said~~ the contract, bill of sale, or similar documentation before making it available for inspection.

(f) ~~No~~ A purchaser of scrap metal may not knowingly purchase or possess a stainless steel or aluminum beer keg, whether damaged or undamaged, or any reasonably recognizable part thereof, for the intended purpose of reselling as scrap metal unless the purchaser receives the keg or keg parts from the beer manufacturer or its authorized representative.

(g) Using a form provided by the West Virginia State Police, or his or her own form, a purchaser of scrap metal shall retain the records required by this section at his or her place of business for not less than three years after the date of the purchase. Upon completion of a purchase, the records required to be retained at a purchaser's place of business shall be available for inspection by any law-enforcement officer or, upon written request and during the purchaser's regular business hours, by any investigator employed by a public utility or railroad to investigate the theft of public utility or railroad property: *Provided*, That in lieu of the purchaser keeping the records at ~~their~~ his or her place of business, the purchaser shall file the records with the local detachment of the State Police and with the chief of police of the municipality or the sheriff of the county ~~wherein~~ he or she is transacting business within ~~seventy-two~~ 72 hours of completion of the purchase. The records shall be retained by the State Police and the chief of police of the municipality or the sheriff for a period of not less than three years.

(h) To the extent otherwise permitted by law, any investigator employed by a public utility or railroad to investigate the theft of public utility or railroad property may accompany a law-enforcement officer upon the premises of a purchaser in the execution of a valid warrant or assist law enforcement in the review of records required to be retained pursuant to this section.

(i) Upon the entry of a final determination and order by a court of competent jurisdiction, scrap metal found to have been misappropriated, stolen, or taken under false pretenses may be returned to the proper owner of ~~such~~ the material.

(j) Nothing in this section applies to scrap purchases by manufacturing facilities that melt, or otherwise alter, the form of scrap metal and transform it into a new product or to the purchase or transportation of food and beverage containers or other nonindustrial materials having a marginal value per individual unit.

(k)(1) Nothing in this section applies to a purchaser of a motor vehicle on which a catalytic converter is installed, a scrap metal dealer purchasing a detached catalytic converter or converters accompanying the motor vehicle from which it or they were removed, a purchaser of a catalytic converter intended for installation on a vehicle owned or leased by the purchaser, or any person who purchases, other than for purposes of resale, a catalytic converter, or a motor

vehicle on which a catalytic converter is installed, for personal, family, household, or business use.

(2) In transactions not exempted by subdivision (1) of this subsection, any person delivering ~~five~~ one or more automobile catalytic converters to a scrap metal dealer shall, in addition to the requirements set forth in subsection (c) of this section, execute a document ~~stating~~ containing the name of the person or entity from whom or which the catalytic converter or converters being delivered was received and affirming that he or she is the lawful owner of the catalytic converters or is authorized by the lawful owner to sell the catalytic converters. Next to his or her signature ~~the person delivering the catalytic converter or converters he or she~~ shall place a clear impression of his or her index finger or thumb that is in ink and free of smearing, or the scrap metal dealer may elect to obtain the fingerprint electronically. This documentation shall be maintained consistent with subsection (c) of this section. Payment shall be made by check payable to the seller. No scrap metal dealer may process, sell, or remove a catalytic converter from its premises for at least 14 days after its acquisition: *Provided*, That the 14-day retention requirement may be reduced to five days if, within the first consecutive five-day period, the scrap dealer provides all documentation required under this section to the local detachment of the State Police and: A) the chief of police of the municipality or, B) the sheriff of the county in which he or she is transacting business. A scrap metal dealer shall make a good faith effort to record any identifying information on a catalytic converter received or purchased and shall not purchase or take possession of a catalytic converter if the identifying information on it has been manually altered.

(l) Any person who knowingly or with fraudulent intent violates any provision of this section for which no penalty is specifically set forth, including the knowing failure to make a report or the knowing falsification of any required information, is guilty of a misdemeanor and, upon conviction of a first offense ~~thereof~~, shall be fined not less than \$1,000 nor more than \$3,000; upon conviction of a second offense ~~thereof~~, shall be fined not less than \$2,000 and not more than \$4,000 and, notwithstanding the provisions of §11-12-5 of this code, the court in which the conviction occurred shall issue an order directing the Tax Commissioner to suspend for a period of six months any business registration certificate held by that person; and upon conviction of a third or subsequent offense, ~~thereof~~ shall be fined not less than \$3,000 and not more than \$5,000 and, notwithstanding the provisions of §11-12-5 of this code, the court in which the conviction occurred shall issue an order directing the Tax Commissioner to cancel any business registration certificate held by that person and state the date ~~said~~ the cancellation shall take takes effect.

(m) ~~No~~ A person may not have or take possession of any scrap metal that he or she knows, or has reason to know, has been stolen or unlawfully obtained. Any person violating this subsection is guilty of larceny.

(n) ~~No~~ A scrap metal dealer may not purchase, possess, or receive scrap metal that the scrap metal dealer knows, or has reason to know, has been stolen or unlawfully obtained by the seller. Any person violating this subsection is guilty of larceny.

(o) No A scrap metal dealer may not purchase, possess, or receive any of the following items of scrap metal, or any reasonably recognizable part thereof, without obtaining written documentation which reflects that the seller is authorized to possess and sell the item or items and that the seller is in lawful possession of the item of scrap metal:

(1) Utility access covers;

(2) Street light poles or fixtures;

- (3) Road or bridge guard rails;
  - (4) Water meter covers;
  - (5) Highway or street signs;
  - (6) Traffic directional or traffic control signs;
  - (7) Traffic light signals;
  - (8) Any metal marked with any form of the name or initials of a governmental entity;
  - (9) Property marked as or readily identifiable as owned by a telephone, cable, electric, water, or other utility provider;
  - (10) Property owned and marked by a railroad;
  - (11) Cemetery markers or vases;
  - (12) Historical markers;
  - (13) Utility manhole covers and storm water grates; ~~and~~
  - (14) Fire hydrant or fire hydrant caps; or
  - (15) Twisted pair copper telecommunications wiring of 25 pair or greater in 19, 22, 24, or 26 gauge.
- (p) Nothing in this section prohibits a scrap dealer from purchasing or taking possession of scrap metal knowing or ~~have~~ having reason to know, that it is stolen or obtained illegally if it is done pursuant to a written agreement with law-enforcement officials.

**§61-3-49c. Possession of a catalytic converter without documentation of ownership or authority to possess; advertising the sale or purchase of a catalytic converter.**

(a) As used in this section, catalytic converter means a motor vehicle exhaust emission control that reduces toxic gases and pollutants from an internal combustion engine.

(b) Any person in possession of a catalytic converter which had previously been installed on a motor vehicle, or parts, thereof shall have in his or her possession written documentation of ownership or authorization to possess the catalytic converter. Any person who violates this subsection is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or confined in jail not more than one year or both fined and confined.

(1) Each catalytic converter possessed in violation of subsection (b) of this section shall constitute a separate offense.

(2) Any catalytic converter possessed in violation of subsection (b) of this section is subject to seizure at the time of arrest.

(3) A person possessing a single catalytic converter in violation of subsection (b) of this section shall for the offense be charged by citation and not subject to arrest for that offense.

(4) Notwithstanding the provisions of subsection (b) of this section, presentation to the court in which charges alleging a violation of said subsection are pending sufficient evidence to show lawful ownership or authority to possess constitutes an absolute defense to the charge or charges.

(c) Any person placing an advertisement on an internet-based platform, including but not limited to Facebook or Twitter, soliciting the sale or purchase of a catalytic converter must have completed the requirements to be considered a scrap metal recycler in §61-3-49(b) of this code, including any other business requirements. Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or confined in jail not more than one year or both fined and confined.

(1) Each catalytic converter possessed in violation of subsection (c) of this section shall constitute a separate offense.

(2) Any catalytic converter possessed in violation of subsection (c) of this section is subject to seizure at the time of arrest.

(3) Notwithstanding the provisions of subsection (c) of this section, presentation to the court in which charges alleging a violation of said subsection are pending sufficient evidence to show lawful ownership or authority to possess constitutes an absolute defense to the charge or charges.;

And,

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

**Eng. Com. Sub for Senate Bill 626**—A Bill to amend and reenact §61-3-49 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-3-49c, all relating to the purchase and possession of certain scrap metal; updating the regulation of the purchase of automobile catalytic converters; requiring certain evidence and documentation from a seller of an automobile catalytic converter; placing restrictions on the payment for automobile catalytic converters; placing restrictions on the sale or transfer of an automobile catalytic converter by a scrap metal dealer; requiring scrap metal dealer to make a good faith effort to record identifying information on a catalytic converter; creating the criminal offense of possession of a catalytic converter without proof of ownership or authority to possess; requiring that persons charged with possession of a single catalytic converter are to be charged by citation and not be subject to arrest; establishing an absolute defense to the criminal action; creating the criminal offense of a person making an internet-based ad soliciting the sale or purchase of a catalytic converter under certain conditions; and establishing criminal penalties.

On motion of Senator Takubo, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 626) were reported by the Clerk, considered simultaneously, and adopted:

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”.

On motion of Senator Takubo, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 626, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 626) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Com. Sub. for Senate Bill 634**, Requiring training of certain officers for persons with autism spectrum disorder.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Com. Sub. for Senate Bill 668**, Creating Psychology Interjurisdictional Compact.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

**Eng. House Bill 2093**, Relating to exemptions for the United States Department of Veterans Affairs Medical Foster Homes.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. Com. Sub. for House Bill 2267**, Establishing an optional bus operator in residence program for school districts.

On motion of Senator Takubo, the bill was taken up for immediate consideration.

Senator Takubo moved that the Senate accede to the request of the House of Delegates and recede from its amendments to the bill.

Following discussion,

The question being on the adoption of Senator Takubo's aforesaid motion, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 2267, as amended by deletion, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2267) passed with its title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the changed effective date, to take effect July 1, 2021, of

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

**Eng. Com. Sub. for House Bill 2758**, Requiring the Insurance Commissioner to regulate professional bondsmen.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

**Eng. Com. Sub. for House Bill 2793**, Permit out of state residents to obtain West Virginia concealed carry permits.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

**Eng. Com. Sub. for House Bill 2890**, To clarify the regulatory authority of the Public Service Commission of West Virginia over luxury limousine services.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, to take effect from passage, of

**Eng. House Bill 2969**, To clarify the procedures for the sale and operation of a municipally owned toll bridge by a private toll transportation facility.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, to take effect from passage, of

**Eng. House Bill 3175**, Relating to removing certain felonies than can prohibit vehicle salespersons from receiving a license.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

**Eng. House Bill 3191**, Requiring employers to send certain notifications when retirants are hired as temporary, part-time employees.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, to take effect July 1, 2022, of

**Eng. House Bill 3294**, Relating to unemployment insurance.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 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.

At the request of Senator Trump, unanimous consent being granted, the resolution was taken up for immediate consideration and reference to a committee dispensed with.

The question being on the adoption of the resolution, the same was put and prevailed.

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

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 98**—For West Virginias Public Employees Insurance Agency (PEIA) Finance Board to examine how they can enhance reimbursement rates to providers.

Referred to the Committee on Rules.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 99**—Requesting the Joint Committee on Government and Finance study childcare in the state of West Virginia, specifically looking to examine the costs and availability of childcare across the state.

Referred to the Committee on Rules.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 100**—Requesting a study on how Local Health Departments are funded and supported.

Referred to the Committee on Rules.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

**House Concurrent Resolution 101**—Requesting a study of the state’s laboratory needs and the utilization of private laboratories.

Referred to the Committee on Rules.

The Senate proceeded to the fourth order of business.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2363**, Relating to “Best Interests of the Child Protection Act of 2021”.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2363) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. House Bill 2776**, Creating the Air Ambulance Patient Protection Act.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 2776) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. House Bill 3089**, Make utility workers essential employees during a state of emergency.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 3089) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the sixth order of business.

Senator Smith offered the following resolution:

**Senate Concurrent Resolution 73**—Providing for the expiration of certain emergency orders issued during the coronavirus pandemic declared on March 16, 2020 in West Virginia.

Whereas, The global coronavirus (COVID-19) pandemic of 2020, which is continuing at this time, has presented unprecedented challenges for the citizens of West Virginia, which have required response of the government of the State of West Virginia; and

Whereas, Exercising the authority and power provided by our state code, the Governor of West Virginia has marshalled the resources of the state and the full authority and response of the government of West Virginia to address the COVID-19 pandemic; and

Whereas, As of April 6, 2021, the total number of confirmed COVID-19 cases in West Virginia is 113,819; and

Whereas, As of April 6, 2021, there have been 530,328 initial vaccinations for COVID-19 administered and 355,892 completed vaccinations for COVID-19 administered; and

Whereas, By May 17, 2021, the total number of complete vaccinations and partial vaccinations for COVID-19 in West Virginia will be substantially increased from current numbers; and

Whereas, By May 17, 2021, the vast majority of West Virginians will have immunity from COVID-19 through either having recovered from the disease or from being fully or partially vaccinated; and

Whereas, The Legislature is mindful of the continuing challenges that the pandemic presents, but recognizes that West Virginia must not prolong emergency measures which might unduly harm the economic and psychological well-being of our citizens; and

Whereas, It is our sworn duty to protect the individual liberties of the citizens of West Virginia; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby provides for the expiration of certain emergency orders issued during the coronavirus pandemic declared on March 16, 2020 in West Virginia; and, be it

*Further Resolved,* That it is the intent of the Legislature to provide a time limit for the emergency orders that have been made by the Governor of West Virginia during the current COVID-19 pandemic; and, be it

*Further Resolved,* That all such orders in effect on April 6, 2021, issued as a result of the COVID-19 pandemic, hereby expire on May 17, 2021, with the exception of Executive Orders 57-20, 79-20, 82-20, 26-20, 11-20, 11-21, 13-20, 17-20, 19-20, 27-20, 35-20, 54-20, 63-20, 66-20, 7-20, 72-20, 73-20, 83-20, 31-20 and 10-21; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Governor of the State of West Virginia, the Honorable James C. Justice II.

Which, under the rules, lies over one day.

Senator Lindsay offered the following resolution:

**Senate Resolution 44**—Recognizing the dedicated public service of the Honorable Tod Joseph Kaufman.

Whereas, The Honorable Tod Joseph Kaufman is a life-long resident of Charleston, West Virginia, the eldest son of Paul J. and Rose Jean Kaufman; and

Whereas, The Honorable Tod Joseph Kaufman attended the public schools of Kanawha County, followed by a preparatory education at George School in Bucks County, Pennsylvania; and

Whereas, The Honorable Tod Joseph Kaufman attended college at Tufts University in Medford, Massachusetts, and graduated with honors in political science and English (1975). While attending Tufts University, he studied as a general course student at the London School of Economics and Political Science (1973-1974); and

Whereas, The Honorable Tod Joseph Kaufman returned home to study law at the West Virginia University College of Law, where he earned his Doctor of Jurisprudence (1980); and

Whereas, From a young age, the Honorable Tod Joseph Kaufman was a frequent visitor to the State Capitol, where his father, the Honorable Paul J. Kaufman, served in the State Senate for two terms in 1960 and 1964; and

Whereas, The Honorable Tod Joseph Kaufman began his public service as an honorary page in the State Senate at the age of eight until the age of 15. After law school, he returned to the capitol to serve as counsel to the Senate Majority Leader, William Moreland, during the 65th Legislature; and

Whereas, In 1982, Governor John D. Rockefeller IV appointed the Honorable Tod Joseph Kaufman, then 30 years of age, to the West Virginia Senate, to fill the unexpired term of then state Senator Bob Wise, who was elected to the U.S. House of Representatives; and

Whereas, The Honorable Tod Joseph Kaufman was elected to the West Virginia Senate in 1984, where he served one term; and

Whereas, The Honorable Tod Joseph Kaufman was elected to the bench in the Thirteenth Judicial Circuit (Kanawha County) in 1988 and re-elected in 1992, 2000, 2008, and 2016, serving as chief judge of West Virginia's largest circuit four times; and

Whereas, On March 31, 2021, the Honorable Tod Joseph Kaufman retired from public service after four decades of serving the citizens of Kanawha County and the State of West Virginia; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the dedicated public service of the Honorable Tod Joseph Kaufman; and, be it

*Further Resolved*, That the Senate congratulates the Honorable Tod Joseph Kaufman on the occasion of his well-deserved retirement and extends its sincere gratitude and appreciation to him for his distinguished service; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Honorable Tod Joseph Kaufman.

Which, under the rules, lies over one day.

Senator Baldwin offered the following resolution:

**Senate Resolution 45**—Recognizing the centennial of the West Virginia Board of Architects.

Whereas, On July 27, 1921, the act establishing the State Board of Examiners and Registration of Architects became effective; and

Whereas, For 100 years, it has been the mission of the West Virginia Board of Architects to protect the health, safety, and welfare of the citizens of West Virginia; and

Whereas, The board joined the National Council of Architectural Registration Boards in 1942 in order to work with other states focusing on public protection, model law, and uniform standards for architects; and

Whereas, Numerous dedicated and distinguished architects and public members have assisted the public by serving on the board at the invitation of the Governor; and

Whereas, Currently 1,350 architects are licensed to practice in West Virginia; and

Whereas, West Virginia acknowledges the significant contributions of the board in ensuring the education, examination, and experience of architects and its efforts to support continuing education; and

Whereas, The year 2021 marks the 100th anniversary of the West Virginia Board of Architects; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the centennial of the West Virginia Board of Architects; and, be it

*Further Resolved,* That the Senate extends its sincere appreciation and gratitude to the West Virginia Board of Architects for its contributions to the State of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the President of the West Virginia Board of Architects, Mr. Adam Krason.

Which, under the rules, lies over one day.

Senators Phillips and Stollings offered the following resolution:

**Senate Resolution 46**—Recognizing the accomplishment of Buffalo Elementary School on becoming champions of the Imagine Learning’s March MATH Madness.

Whereas, Buffalo Elementary School utilizes Imagine Math, the county-provided program for enrichment and remediation which allows students to work ahead of the intended classroom instructional pace and allows them to review skills already covered in class to keep them fresh in their minds; and

Whereas, The program requires students to explain their answers and understanding, thus further developing their math skills by completing answer and error analysis; and

Whereas, As March rolled around, Buffalo Elementary School found themselves in the Sweet 16 of the program’s March Math Madness competition; and

Whereas, As the weeks progressed, Buffalo Elementary School progressed to the elite eight, final four, and then the top two of the competition; and

Whereas, Seeing the students’ determination for success was refreshing. Students were assisting each other with understanding skills that they did not understand during a specific lesson. The support started pouring in from all over the state and it rejuvenated the student body; and

Whereas, On Monday, March 29, 2021, Buffalo Elementary School reaped the benefits of their hard work over the last month. The school was crowned the 14th Annual March MATH Madness champions. They are the first school to win the competition in the state of West Virginia; and

Whereas, Buffalo Elementary School students passed over 24,000 lessons this year on Imagine Math; therefore, be it



*Resolved by the Senate:*

That the Senate hereby recognizes the accomplishment of Buffalo Elementary School on becoming champions of the Imagine Learning's March MATH Madness; and, be it

*Further Resolved*, That Buffalo Elementary School shall be honored for their great success as Champions of the Imagine Learning's March Math Madness, where the students not only gained new math skills, but came together as a community and demonstrated excellent work ethic to reach this prodigious achievement; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to Buffalo Elementary School.

Which, under the rules, lies over one day.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the fourth order of business.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Concurrent Resolution 74** (originating in the Committee on the Judiciary)—  
Requesting the Joint Committee on Government and Finance study the feasibility of legislation to reduce criminal activity and increase online marketplace transparency.

Whereas, Brick-and-mortar retailers in West Virginia are concerned about criminals stealing merchandise from brick-and-mortar stores and then illegally selling those goods on online marketplaces; and

Whereas, Some online third-party marketplaces support anonymous selling accounts on their platforms; and

Whereas, Criminal activity may be reduced and consumers may benefit from increased online marketplace transparency; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the feasibility of legislation to reduce criminal activity and increase online marketplace transparency; and, be it

*Further Resolved*, That the study include the significance of criminals stealing merchandise from brick-and-mortar stores and then illegally selling those goods on online marketplaces; and, be it

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

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

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 74) contained in the foregoing report from the Committee on the Judiciary was then referred to the Committee on Rules.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Concurrent Resolution 75** (originating in the Committee on the Judiciary)—Requesting the Joint Committee on the Judiciary study the feasibility of conforming the timing of elections and ballot initiatives of political subdivisions of this state to coincide with scheduled statewide and federal primary and general elections.

Whereas, Some municipalities, counties, and other political subdivisions of this state currently hold elections and ballot initiatives outside of scheduled statewide and federal primary and general election dates; and

Whereas, Holding such local elections and ballot initiatives outside of the scheduled statewide and federal primary and general election cycle may cause political subdivisions to incur significant administrative costs; and

Whereas, Such costs incurred by political subdivisions could be reduced if such local elections and ballot initiatives coincide with scheduled statewide and federal primary and general elections; and

Whereas, Holding such local elections and ballot initiatives outside of the scheduled statewide and federal primary and general election cycle may result in low voter turnout on such local elections and ballot initiatives; and

Whereas, It is believed that voter turnout for local elections and ballot initiatives could increase if such local elections and ballot initiatives coincide with scheduled statewide and federal primary and general elections; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on the Judiciary is hereby requested to study the feasibility of conforming the timing of elections and ballot initiatives of political subdivisions of this state to coincide with scheduled statewide and federal primary and general elections; and, be it

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

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

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 75) contained in the foregoing report from the Committee on the Judiciary was then referred to the Committee on Rules.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for Senate Bill 125**, Budget Bill.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

**Eng. Com. Sub. for House Bill 2002**, Relating to Broadband.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. Com. Sub. for House Bill 2005**, Relating to health care costs.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2005) passed.

On motion of Senator Maroney, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 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.

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

**Eng. Com. Sub. for House Bill 2017**, Rewriting the Criminal Code.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2017) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 2017**—A Bill to amend and reenact §15-9C-3 of the code of West Virginia 1931, as amended; relating to requiring 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 bill passed by the West Virginia House of Delegates set forth in the proposed §61-17-1 *et seq.* of the house bill.

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

At the request of Senator Weld, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. House Bill 2379**, Make criminal invasion of privacy a felony.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Wednesday, April 7, 2021, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the right to amend remaining in effect and with the unreported Judiciary committee amendment pending.

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

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Wednesday, April 7, 2021, for further amendments to be received on third reading, was reported by the Clerk.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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.~~

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2507), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Boley, Caputo, Clements, Hamilton, Jeffries, Lindsay, Maroney, Nelson, Phillips, Plymale, Romano, Rucker, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—24.

The nays were: Azinger, Baldwin, Beach, Grady, Ihlenfeld, Karnes, Martin, Maynard, Roberts, and Smith—10.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2507) passed.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 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.

Senator Takubo moved that the bill take effect July 1, 2021.

On this question, the yeas were: Boley, Caputo, Clements, Hamilton, Jeffries, Lindsay, Maroney, Nelson, Phillips, Plymale, Romano, Rucker, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—24.

The nays were: Azinger, Baldwin, Beach, Grady, Ihlenfeld, Karnes, Martin, Maynard, Roberts, and Smith—10.

Absent: None.

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

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

**Eng. House Bill 2730**, Relating to persons filing federal bankruptcy petition to exempt certain property of the estate.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Wednesday, April 7, 2021, for further amendments to be received on third reading, was reported by the Clerk.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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.

There being no further amendments offered,

Having been engrossed, the bill (Eng. H. B. 2730), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2730) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill 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.

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

**Eng. Com. Sub. for House Bill 2760**, Relating to economic development incentive tax credits.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Weld, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Weld, the following amendment to the bill was reported by the Clerk:

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.~~

~~(c) (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 those 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.

Following discussion,

The question being on the adoption of Senator Weld's amendment to the bill, the same was put and prevailed.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2760), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2760) passed.

On motion of Senator Weld, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 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.

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

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

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2773 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2773) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2773) takes effect from passage.

*Ordered*, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence in the changed effective date.

**Eng. House Bill 2830**, Relating generally to sex trafficking.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2830) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill 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.

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

**Eng. Com. Sub. for House Bill 2842**, Preventing cities from banning utility companies in city limits.

On third reading, coming up in regular order, with the unreported Energy, Industry, and Mining committee amendment pending, and with the right having been granted on yesterday, Wednesday, April 7, 2021, for further amendments to be received on third reading, was reported by the Clerk.

The following amendment to the bill, from the Committee on Energy, Industry, and Mining, was reported by the Clerk and adopted:

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.**

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2842), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Caputo, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—24.

The nays were: Baldwin, Beach, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel—10.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2842) passed.

The following amendment to the title of the bill, from the Committee on Energy, Industry, and Mining, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 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.

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

**Eng. House Bill 2915**, Relating to public records management and preservation.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. House Bill 2918**, Relating to Family Drug Treatment Court.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 2918 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2918) passed with its title.

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

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

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Wednesday, April 7, 2021, for further amendments to be received on third reading, was reported by the Clerk.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 3254), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3254) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 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.

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

**Eng. House Bill 3286**, Making a supplementary appropriation to the Division of Human Services – Child Care and Development.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3286) passed with its title.



Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3286) takes effect from passage.

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

**Eng. House Bill 3287**, Making a supplementary appropriation to the Department of Homeland Security.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3287) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3287) takes effect from passage.

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

**Eng. House Bill 3288**, Supplementing and amending appropriations by decreasing and increasing existing items of appropriation in the DHHR.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3288) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3288) takes effect from passage.

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

**Eng. House Bill 3289**, Supplementary appropriation to the Department of Commerce, Geological and Economic Survey.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3289) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips,

Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3289) takes effect from passage.

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

**Eng. House Bill 3291**, Making a supplementary appropriation to the Department of Homeland Security, Division of Administrative Services.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Karnes—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3291) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Karnes—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3291) takes effect from passage.

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

**Eng. House Bill 3292**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips,

Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3292) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3292) takes effect from passage.

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

**Eng. Com. Sub. for House Bill 3293**, Relating to single-sex participation in interscholastic athletic events.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

(Senator Weld in the Chair.)

Pending discussion,

Senator Trump arose to a point of order stating the Senator from Jefferson had yielded for the purpose of answering questions posed by the Senator from Harrison, the Senator from Harrison was not affording the Senator from Jefferson the opportunity to answer questions posed before asking further questions.

Which point of order, the Chair ruled well taken.

Pending discussion,

(Senator Blair, Mr. President, in the Chair.)

Pending extended discussion,

(Senator Tarr in the Chair.)

Pending discussion,

(Senator Blair, Mr. President, in the Chair.)

Pending discussion,

Senator Beach moved that Engrossed Committee Substitute for House Bill 3293 be tabled.

The question being on the adoption of Senator Beach's aforesaid motion, the same was put and did not prevail.

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 3293 pass?"

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Martin, Maynard, Phillips, Roberts, Rucker, Smith, Stover, Sypolt, Tarr, Trump, Woodrum, and Blair (Mr. President)—18.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Maroney, Nelson, Plymale, Romano, Stollings, Swope, Takubo, Unger, and Weld—15.

Absent: Woelfel—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3293) passed.

On motion of Senator Rucker, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 3293**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25d, relating to designation of athletic teams or sports sponsored by any public secondary school or state institution of higher education according to biological sex; providing legislative findings; defining "biological sex", "female", and "male"; providing for designation of athletic teams as "males, men, or boys", "females, women, or girls", or "coed or mixed"; prohibiting biological males from participating on athletic teams or sports designated for biological females where competitive skill or contact is involved; clarifying that eligibility of any student to participate on athletic teams or sports designated for biological males is not restricted; providing cause of action for student aggrieved by violation of this section; requiring identity of minor student related to such action to remain anonymous; requiring promulgation of rules by the State Board of Education; and requiring proposal of legislative rules by the Higher Education Policy Commission and Council for Community and Technical College Education.

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

On motion of Senator Takubo, at 2:07 p.m., the Senate recessed until 3 p.m. today.

The Senate reconvened at 3:02 p.m. today and, without objection, returned to the third order of business.

**Executive Communications**

The Clerk then presented the following communication from His Excellency, the Governor, regarding bills approved by him:



*Jim Justice*  
*Governor of West Virginia*

April 8, 2021

The Honorable Lee Cassis, Clerk  
West Virginia Senate  
State Capitol  
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, is the following bill:

Committee Substitute for Committee Substitute for Senate Bill No. Two Hundred Seventy-Five (275), which was presented to me on April 2, 2021.

You will note that I have approved this bill on April 8, 2021.

Sincerely,

A handwritten signature in blue ink that reads "Jim Justice".

Jim Justice  
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk



*Jim Justice*  
*Governor of West Virginia*

April 8, 2021

The Honorable Stephen J. Harrison, Clerk  
West Virginia House of Delegates  
State Capitol  
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, is the following bill:

Committee Substitute for House Bill No. Two Thousand Four Hundred Ninety-Nine (2499), which was presented to me on April 2, 2021.

You will note that I have approved this bill on April 8, 2021.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice".

Jim Justice  
Governor

JJ/mh

cc: The Honorable Lee Cassis

The Senate again proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 8th day of April, 2021, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(S. B. 78)**, Relating to rehabilitative spousal support.

**(S. B. 89)**, Exempting certain kindergarten and preschool programs offered by private schools from registration requirements.

**(Com. Sub. for S. B. 377)**, Relating to extension for boil water advisories by water utility or public service district.

**(S. B. 437)**, Extending contingent increase of tax rate on certain eligible acute care hospitals.

**(Com. Sub. for S. B. 514)**, Providing criteria for Natural Resource Commission appointment and compensation.

**(Com. Sub. for S. B. 518)**, Relating to grounds for administrative dissolution of certain companies, corporations, and partnerships.

**(S. B. 644)**, Exempting certain persons pursuing degree in speech pathology and audiology from license requirements.

And,

**(Com. Sub. for H. B. 2793)**, Permit out of state residents to obtain West Virginia concealed carry permits.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Dean Jeffries,  
*Chair, House Committee.*

The Senate again proceeded to the eighth order of business and resumed consideration of its third reading calendar, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 3295**, Making a supplemental appropriation to Division of Human Services and Division of Health Central Office.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.



The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3295) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3295) takes effect from passage.

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

**Eng. Com. Sub. for House Bill 3297,** Making a supplemental appropriation to the Department of Veterans' Assistance - Veterans Home.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3297) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3297) takes effect from passage.

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

**Eng. House Bill 3310**, Relating to the jurisdiction of the Public Service Commission.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 3310 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: Phillips—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3310) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill 3310**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-1-1c; to amend and reenact §24-1-2 of said code; and to amend and reenact §24-2-1 of said code; all generally relating to jurisdiction of the Public Service Commission; making legislative findings; defining terms; creating exception to the term public utility for certain solar photovoltaic energy facilities on the premises of a retail electric customer, the output of which is subject to solar power purchase agreements; providing for rulemaking; and limiting jurisdiction of the Public Service Commission.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: Phillips—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3310) takes effect from passage.

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

**Com. Sub. for House Joint Resolution 1**, Education Accountability Amendment.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Wednesday, April 7, 2021, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the resolution was laid over one day, retaining its place on the calendar, with the right to amend remaining in effect and with the unreported Judiciary committee amendment pending.

**House Joint Resolution 2**, Providing that courts have no authority or jurisdiction to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate.

On third reading, coming up in regular order, with the right having been granted on yesterday, Wednesday, April 7, 2021, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, and with the right to amend remaining in effect.

The Senate proceeded to the ninth order of business.

**Eng. House Bill 2029**, Relating to teacher preparation clinical experience programs.

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

The following amendment to the bill, from the Committee on Education, was reported by the Clerk and adopted:

On page thirteen, section two-a, line ninety-seven, by striking out the words "subsection (e), section one of this article" and inserting in lieu thereof the words "§18A-3-1(e) of this code".

The bill (Eng. H. B. 2029), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2145**, Relating to student aide class titles.

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

The following amendment to the bill, from the Committee on Education, was reported by the Clerk and adopted:

On page four, section eight, lines ninety-two through ninety-three, by striking out the words "These classes are designed to improve skills and competency's related to the provision of services to special needs students."

The bill (Eng. Com. Sub. for H. B. 2145), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2221**, Relating to the establishment of an insurance innovation process.

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

The following amendment to the bill, from the Committee on Banking and Insurance, was reported by the Clerk and adopted:

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

**ARTICLE 60. INSURANCE INNOVATION.**

**§33-60-1. Definitions.**

For the purposes of this article, unless the context otherwise indicates:

“Applicant” means a person or entity that has filed an application under §33-60-2 of this code.

“Beta test” means the phase of testing of an insurance innovation in the regulatory sandbox through the use, sale, license, or availability of the insurance innovation by or to clients or consumers under the supervision of the commissioner.

“Client” means a person, other than a consumer, utilizing a participant’s insurance innovation during a beta test to carry on some activity regulated by the commissioner.

“Commissioner” means the West Virginia Insurance Commissioner or the West Virginia Offices of the Insurance Commissioner, as appropriate.

“Extended no-action letter” means a public notice setting forth the conditions for an extended safe harbor beyond the beta test under which the commissioner will not take any administrative or regulatory action against any person using the insurance innovation described in the extended no-action letter.

“Innovation” means any product, process, method, or procedure relating to the sale, solicitation, negotiation, fulfillment, administration, or use of any product or service regulated by the commissioner:

(A) That has not been used, sold, licensed, or otherwise made available in this state before the filing date of the application, whether or not the product or service is marketed or sold directly to consumers; and

(B) That has regulatory and statutory barriers that prevent its use, sale, license, or availability within this state.

“Innovation’s utility” means an evaluation by the commissioner of the insurance innovation’s ability to adequately satisfy factors set forth in §33-60-2(a)(2)(A) of this code.

“Limited no-action letter” or “limited letter” means a letter setting forth the conditions of a beta test and establishing a safe harbor under which the commissioner will not take any administrative or regulatory action against a participant or client of the participant concerning the compliance of the insurance innovation with West Virginia law so long as the participant or client abides by the terms and conditions established in the limited no-action letter.

“Participant” means an applicant that has been issued a limited no-action letter under §33-60-4 of this code.

“Person” means a person or entity.

“Qualified United States financial institution” means an institution that:

(A) Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(B) Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies; and

(C) Has been determined by either the commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

“Regulatory sandbox” means the process established under this article by which an applicant may apply to beta test and obtain a limited no-action letter for an innovation, potentially resulting in the issuance of an extended no-action letter.

**§33-60-2. Application for admission to regulatory sandbox.**

(a) Except as provided in subsection (b) of this section, on or before December 31, 2025, an applicant may apply to the commissioner for admission to the regulatory sandbox by submitting an application in the form prescribed by the commissioner, accompanied by the following:

(1) A filing fee of \$750;

(2) A detailed description of the innovation, which shall include:

(A) An explanation of how the innovation will:

(i) Add value to customers and serve the public interest;

(ii) Be economically viable for the applicant;

(iii) Provide suitable consumer protection; and

(iv) Pose no unreasonable risk of consumer harm.

(B) A detailed description of the statutory and regulatory issues that prevents the innovation from being utilized, issued, sold, solicited, distributed, or advertised in the market currently;

(C) A description of how the innovation functions, as well as the manner in which it will be offered or provided;

(D) If the innovation involves the use of software, hardware, or other technology developed for the purpose of implementing or operating it, a technical white paper setting forth a description of the operation and general content of technology to be utilized, including:

(i) The problem addressed by that technology; and

(ii) The interaction between that technology and its users;

(E) If the innovation involves the issuance of a policy of insurance, a statement that:

(i) If the applicant will be the insurer on the policy, the applicant holds a valid license or certificate of authority and is authorized to issue the insurance coverage in question; or

(ii) If some other person will be the insurer on the policy, the other person holds a valid license or certificate of authority and is authorized to issue the insurance coverage in question; and

(F) A statement by an officer of the applicant certifying that no product, process, method, or procedure substantially similar to the innovation has been used, sold, licensed, or otherwise made available in this state before the filing date of the application;

(3) The name, contact information, and bar number of the applicant's insurance regulatory counsel, which shall be a person with experience providing insurance regulatory compliance advice;

(4) A detailed description of the specific conduct that the applicant proposes should be permitted by the limited no-action letter;

(5) Proposed terms and conditions to govern the applicant's beta test, which shall include:

(A) Citation to the provisions of West Virginia law that should be excepted in the notice of acceptance issued under §33-60-3(d)(2) of this code; and

(B) Any request for an extension of the time period for a beta test under §33-60-5(a) of this code and the grounds for the request;

(6) Proposed metrics by which the commissioner may reasonably test the innovation's utility during the beta test;

(7) Disclosure of all:

(A) Persons who are directors and executive officers of the applicant;

(B) General partners of the applicant if the applicant is a limited partnership;

(C) Members of the applicant if the applicant is a limited liability applicant;

(D) Persons who are beneficial owners owning 10 percent or more of the voting securities of the applicant;

(E) Other persons with direct or indirect authority to direct the management and policies of the applicant by contract, other than a commercial contract for goods or nonmanagement services; and

(F) Conflicts of interest with respect to any person listed in this subdivision and the commissioner;

(8) A statement that the applicant has funds of at least \$25,000 available to guarantee its financial stability through one or a combination of any of the following:

(A) A contractual liability insurance policy;

(B) A surety bond issued by an authorized surety;

(C) Securities of the type eligible for deposit by authorized insurers in this state;

(D) Evidence that the applicant has established an account payable to the commissioner in a federally insured financial institution in this state and has deposited money of the United States in an amount equal to the amount required by this subdivision that is not available for withdrawal except by direct order of the commissioner;

(E) A letter of credit issued by a qualified United States financial institution; or

(F) Another form of security authorized by the commissioner; and

(9) A statement confirming that the applicant is not seeking authorization for, nor shall it engage in, any conduct that would render the applicant unauthorized to make an application under subsection (b) of this section.

(b)(1)The following persons shall not be authorized to make an application to the commissioner for admission to the regulatory sandbox:

(A) Any person seeking to sell or license an insurance innovation directly to any federal, state, or local government entity, agency, or instrumentality as the insured person or end user of the innovation;

(B) Any person seeking to sell, license, or use an insurance innovation that is not in compliance with §33-60-2(a)(2)(E) of this code;

(C) Any person seeking to make an application that would result in the person having more than five active beta tests ongoing within the state at any one time; or

(D) Any person seeking a limited or extended no-action letter or exemption from any administrative regulation or statute concerning:

(i) Assets, deposits, investments, capital, surplus, or other solvency requirements applicable to insurers;

(ii) Required participation in any assigned risk plan, residual market, or guaranty fund;

(iii) Any licensing or certificate of authority requirements; or

(iv) The application of any taxes or fees.

(2) For the purposes of this subsection, “federal, state, or local government entity, agency, or instrumentality” includes but is not limited to any county, city, municipal corporation, local government, special district, public school district, or public institution of education.

### **§33-60-3. Acceptance or rejection of application.**

(a)(1) Unless extended as provided in §33-60-3(a)(2) of this code, the commissioner shall issue a notice of acceptance or rejection in accordance with this section within 60 days from the date an application is received.

(2) The commissioner may extend by not more than 30 days the period provided in subdivision (1) of this subsection if he or she notifies the applicant before expiration of the initial 60-day period.

(3) An application that has not been accepted or rejected by a notice of acceptance or rejection issued by the commissioner prior to expiration of the initial 60-day period, or if applicable, the period provided in §33-60-3(a)(2) of this code, shall be deemed accepted.

(b) The commissioner may request from the applicant any additional material or information necessary to evaluate the application, including but not limited to:

(1) Proof of financial stability;

(2) A proposed business plan;

(3) Pro-forma financial statement; and

(4) Executive profiles on the applicant and its leadership demonstrating insurance or insurance-related industry experience and applicable experience in the use of the technology.

(c) The commissioner shall review the application to:

(1) Identify and assess:

(A) The potential risks to consumers, if any, posed by the innovation; and

(B) The manner in which the innovation would be offered or provided; and

(2) Determine whether it satisfies the following requirements:

(A) The application satisfies the requirements of §33-60-2 of this code;

(B) The application proposes a product, process, method, or procedure that meets the definition of innovation under §33-60-1 of this code;

(C) Approval of the application does not pose an unreasonable risk of consumer harm;

(D) The application identifies statutory or regulatory requirements that actually prevent the innovation from being utilized, issued, sold, solicited, distributed, or advertised in this state; and

(E) The application proposes an innovation that is not substantially similar to another innovation:

(i) That has been previously beta tested; or

(ii) Proposed in an application that is currently pending with the commissioner.

(d) Upon review of the application, the commissioner shall, in his or her discretion, issue one of the following:

(1) If the commissioner determines that the application fails to satisfy any of the requirements under §33-60-3(c)(2) of this code, he or she shall:

(A) Issue a notice of rejection to the applicant; and

(B) Describe in the notice of rejection the specific defects in the application; or



(2) If the commissioner determines that the application satisfies the requirements of §33-60-3(c)(2) of this code, he or she shall issue a notice of acceptance to the applicant. The notice of acceptance shall:

(A) Set forth the terms and conditions that will govern the applicant's beta test, which shall include, at a minimum:

(i) A requirement that the applicant:

(I) Abide by all West Virginia law, except where explicitly excepted;

(II) Utilize the insurance innovation within this state; and

(III) Report any change in the disclosures made pursuant to §33-60-2(a)(7) of this code;

(ii) A notice of the licenses required to be obtained prior to the commencement of the beta test;

(iii) Monthly reporting obligations structured to determine the progress of the beta test;

(iv) Consumer protection measures deemed necessary by the commissioner to be employed by the applicant;

(v) The level of financial stability required to be in place for the beta test. The commissioner may increase, decrease, or waive the requirements for financial stability required under §33-60-2(a)(8) of this code, commensurate with the risk of consumer harm posed by the insurance innovation;

(vi) The duration of the beta test, including any extension authorized under §33-60-5 of this code;

(vii) Permitted conduct under the limited letter;

(viii) Any limits established by the commissioner on the:

(I) Financial exposure that may be assumed by an applicant during the beta test;

(II) Number of customers an applicant may accept; and

(III) Volume of transactions that an applicant or its clients may complete during the beta test; and

(ix) The metrics the commissioner intends to use to determine the innovation's utility; and

(B) Provide that the notice of acceptance shall expire unless:

(i) It is accepted by the applicant in writing; and

(ii) The acceptance is filed with the commissioner within 60 days of the issuance of the notice.

(e) An applicant may request a hearing pursuant to §33-2-13 of this code on:

(1) A notice of rejection; and

(2) A notice of acceptance, if the request is made prior to its expiration.

**§33-60-4. Limited no-action letter.**

(a) Within 10 days following the timely receipt of an acceptance pursuant to §33-60-3(d)(2)(B) of this code, the commissioner shall issue a limited no-action letter that:

(1) Sets forth terms and conditions for the participant that are the same as those set forth in the notice of acceptance issued under §33-60-3(d)(2) of this code; and

(2) Provides that so long as the participant and any clients of the participant abide by the terms and conditions set forth in the letter, no administrative or regulatory action concerning the compliance of the insurance innovation with West Virginia law will be taken by the commissioner against the participant or any clients during the term of the beta test.

(b) If the application is deemed accepted under §33-60-3(a)(3) of this code, the proposed limited no-action letter included with the application shall be deemed to have the effect of a limited letter issued by the commissioner.

(c) The safe harbor of the limited letter shall persist until the earlier of:

(1) The early termination of the beta test under §33-60-5 of this code;

(2) The issuance of an extended no-action letter; or

(3) The issuance of a notice declining to issue an extended no-action letter.

(d) The commissioner shall publish all limited letters issued pursuant to this section on the commissioner's publicly accessible internet website.

**§33-60-5. Time period of beta test; extension of time period; penalties for violation of limited no-action letter.**

(a) The time period for a beta test shall be three years. The time period may be extended by the commissioner in the notice of acceptance for a period that is not longer than one year if a request is made in accordance with §33-60-2(a)(5)(B) of this code.

(b) During the beta test, the participant and any clients of the participant shall:

(1) Comply with all terms and conditions set forth in the limited no-action letter; and

(2) Provide the commissioner with all documents, data, and information requested by the commissioner.

(c) For any violation of the terms or conditions set forth in the limited letter, the commissioner may:

(1) Issue an order terminating the beta test and the safe harbor of the limited letter before the time period set forth in the limited letter has expired; and

(2) Impose a fine of not more than \$2,000 per violation.

(d) The commissioner may issue an order under §33-60-5(c) of this code if, following receipt of information or complaints, the commissioner determines the beta test is causing consumer harm.

(e) The commissioner may issue an order requiring a client to cease and desist any activity violating the terms or conditions set forth in the limited letter. The issuance of a cease and desist order to one client shall not otherwise impact the ability of the participant or any other clients to continue activities relating to the innovation in a manner compliant with the requirements of the limited letter.

(f) A participant or client may request a hearing on any order issued under this section pursuant to §33-2-13 of this code.

**§33-60-6. Extended no-action letter; review of beta test.**

(a) Within 60 days of completion of the beta test, unless the time period is extended up to 30 days upon notice from the commissioner, the commissioner shall issue an extended no-action letter or a notice declining to issue an extended no-action letter. The participant may continue to employ the insurance innovation pursuant to the terms and conditions of the limited letter during the period between the completion of the beta test and the issuance of either an extended no-action letter or a notice declining to issue an extended no-action letter.

(b) The commissioner shall review the results of the beta test to determine whether the innovation satisfies the following requirements:

(1) The data presented demonstrates that the innovation's utility was meritorious of an extension;

(2) Regulatory and statutory barriers prevent continued use of the innovation within this state;

(3) The innovation provided a benefit to West Virginia consumers; and

(4) The issuance of an extended no-action letter:

(A) Presents no risk of unreasonable harm to consumers or the marketplace; and

(B) Serves the public interest.

(c) Upon review of the results of the beta test the commissioner shall, in his or her discretion, issue one of the following:

(1) If the commissioner determines that the innovation fails to satisfy any of the requirements under §33-60-6(b) of this code, he or she shall:

(A) Issue a notice declining to issue an extended no-action letter;

(B) Describe in the notice the reasons for the declination;

(C) Notify the participant for the innovation of the notice; and

(D) Publish the notice on the commissioner's publicly accessible Internet website; or

(2) If the commissioner determines that the innovation satisfies the requirements under §33-60-6(b) of this code, he or she shall issue an extended no-action letter. An extended no-action letter issued by the commissioner shall include:

(A) A description of the insurance innovation and the specific conduct permitted by the extended no-action letter in sufficient detail to enable any person to use the innovation or a product, process, method, or procedure not substantially different from the innovation within the safe harbor of the extended no-action letter;

(B) Notice of any certificate of authority, license, or permit the commissioner determines is necessary to use, sell, or license the innovation, or make the innovation available, in this state;

(C) An expiration date not greater than three years following the date of issuance;

(D) Notice that the extended no-action letter may:

(i) Be modified only by:

(I) Legislative rule proposed by the commissioner, if the safe harbor addresses a requirement established by rule; or

(II) An act of the Legislature; and

(ii) Be rescinded prior to its expiration if the commissioner receives complaints and determines continued activity poses a risk of harm to consumers;

(E) Clarification of required procedures related to the issuance and cancellation of any policies of insurance, if applicable, due to the expiration period; and

(F) Notice that, upon expiration, all persons relying on the extended no-action letter shall cease and desist operations related to the innovation unless changes have been made to West Virginia law to permit the innovation by:

(i) The promulgation of a legislative rule by the commissioner, if the safe harbor addresses a requirement established by rule; or

(ii) An act of the Legislature.

(d) A hearing on a notice of declination may be requested in accordance with §33-2-13 of this code.

(e) An extended no-action letter issued by the commissioner pursuant to this section shall be published on the commissioner's publicly accessible internet website.

### **§33-60-7. Confidentiality of information.**

(a) All documents, materials, or other information in the possession or control of the commissioner that are created, produced, obtained, or disclosed in relation to this article and that relate to the financial condition of any person shall be confidential by law and privileged, are not

subject to the provisions of chapter 29B of this code, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action.

(b) Notwithstanding any law to the contrary, the commissioner may disclose in an extended no-action letter any information relating to the insurance innovation necessary to clearly establish the safe harbor of the extended no-action letter.

### **§33-60-8. Reports to the Legislature.**

(a) On or before September 1 each year during which there was activity pursuant to this article during the prior fiscal year, the commissioner shall submit a written report to the Joint Committee on Government and Finance that meets the requirements of §33-60-8(b) of this code.

(b) The report shall include the following:

(1) The number of:

(A) Applications filed and accepted;

(B) Beta tests conducted; and

(C) Extended no-action letters issued;

(2) A description of the innovations tested;

(3) The length of each beta test;

(4) The results of each beta test;

(5) A description of each safe harbor created under §33-60-6 of this code;

(6) The number and types of orders or other actions taken by the commissioner or any other interested party under this article;

(7) Identification of any statutory barriers for consideration by the Legislature following successful beta tests and the issuance of extended no-action letters; and

(8) Any other information or recommendations deemed relevant by the commissioner.

(c) The commissioner shall also, upon request of any committee of the Legislature, testify and explain any report submitted under this section and any activity pursuant to this article.

### **§33-60-9. Reciprocity agreements.**

The commissioner may enter into agreements with state, federal, or foreign regulatory agencies to allow persons who make an insurance innovation available in West Virginia through the regulatory sandbox to make their insurance innovation available in other jurisdictions and to allow persons operating in similar regulatory sandboxes in other jurisdictions to make insurance innovations available in West Virginia under the standards of this article.

### **§33-60-10. Rulemaking.**

(a) The Insurance Commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code for the purposes of administering this article.

(b) The Insurance Commissioner shall develop all forms, contracts, or other documents to be used for the purposes outlined in this article.

The bill (Eng. Com. Sub. for H. B. 2221), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2266**, Relating to expanding certain insurance coverages for pregnant women.

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

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

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

**§9-5-12. Medicaid program; maternity and infant care.**

~~(a) The Legislature finds that high rates of infant mortality and morbidity are costly to the state in terms of human suffering and of expenditures for long-term institutionalization, special education, and medical care. It is well documented that appropriate care during pregnancy and delivery can prevent many of the expensive, disabling problems our children experience. There exists a crisis in this state relating to the availability of obstetrical services, particularly to patients in rural areas, and to the cost patients must pay for obstetrical services. The availability of obstetrical service for Medicaid patients enables these patients to receive quality medical care and to give birth to healthier babies and, consequently, improve the health status of the next generation.~~

~~The Legislature further recognizes that public and private insurance mechanisms remain inadequate, and poor and middle income women and children are among the most likely to be without insurance. Generally, low income, uninsured children receive half as much health care as their insured counterparts. The state is now investing millions to care for sick infants whose deaths and disabilities could have been avoided.~~

~~It is the intent of the Legislature that the Department of Health and Human Resources participate in the Medicaid program for indigent children and pregnant women established by Congress under the Consolidated Omnibus Budget Reconciliation Act (COBRA), Public Law 99-272, the Sixth Omnibus Budget Reconciliation Act (SOBRA), Public Law 99-504, and the Omnibus Budget Reconciliation Act (OBRA), Public Law 100-203.~~

~~(b)~~ (a) The department shall:

(1) Extend Medicaid coverage to pregnant women and their newborn infants to 185 percent of the federal poverty level and to provide coverage up to ~~60 days~~ 1-year postpartum care, effective July 1, ~~2019~~, 2021 or as soon as federal approval has occurred.

(2) As provided under ~~COBRA, SOBRA, and OBRA~~ the Consolidated Omnibus Budget Reconciliation Act (COBRA), Public Law 99-272, the Sixth Omnibus Budget Reconciliation Act (SOBRA), Public Law 99-509, and the Omnibus Budget Reconciliation Act (OBRA), Public Law 100-123, effective July 1, 1988, infants shall be included under Medicaid coverage with all children eligible for Medicaid coverage born after October 1, 1983, whose family incomes are at or below

100 percent of the federal poverty level and continuing until such children reach the age of eight years.

(3) Elect the federal options provided under COBRA, SOBRA, and OBRA impacting pregnant women and children below the poverty level: *Provided*, That no provision in this article shall restrict the department in exercising new options provided by or to be in compliance with new federal legislation that further expands eligibility for children and pregnant women.

(4) The department is responsible for the implementation and program design for a maternal and infant health care system to reduce infant mortality in West Virginia. The health system design shall include quality assurance measures, case management, and patient outreach activities. The department shall assume responsibility for claims processing in accordance with established fee schedules and financial aspects of the program necessary to receive available federal dollars and to meet federal rules and regulations.

(5) ~~Beginning July 1, 1988, the~~ The department shall increase to no less than \$600 the reimbursement rates under the Medicaid program for prenatal care, delivery, and post-partum care.

~~(c)~~ (b) In order to be in compliance with the provisions of OBRA through rules and regulations, the department shall ensure that pregnant women and children whose incomes are above the Aid to Families and Dependent Children (AFDC) payment level are not required to apply for entitlements under the AFDC program as a condition of eligibility for Medicaid coverage. Further, the department shall develop a short, simplified pregnancy/pediatric application of no more than three pages, paralleling the simplified OBRA standards.

~~(d)~~ (c) Any woman who establishes eligibility under this section shall continue to be treated as an eligible individual without regard to any change in income of the family of which she is a member until the end of the ~~60-day~~ 1 year period beginning on the last day of her pregnancy.

~~(e)~~ (d) The department shall make payment for tubal ligation without requiring at least 30 days between the date of informed consent and the date of the tubal ligation procedure.

The bill (Eng. Com. Sub. for H. B. 2266), as amended, was then ordered to third reading.

**Eng. House Bill 2500**, Create an act for Statewide Uniformity for Auxiliary Container Regulations.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Government Organization committee amendment pending and the right for further amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 2573**, Relating generally to the transparency and accountability of state grants to reduce waste, fraud, and abuse.

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

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

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

**ARTICLE 10. WEST VIRGINIA DEVELOPMENT ACHIEVEMENTS TRANSPARENCY ACT.**

**§5B-10-1. Short title.**

This article shall be known and cited as the “West Virginia Development Achievements Transparency Act” or the “West Virginia DATA Act”.

**§5B-10-2. Purpose and findings.**

(a) The Legislature finds that public tax dollars are expended annually, whether directly in the form of grants or indirectly in the form of tax credits and incentives, for the purpose of developing and improving economic industries within the State of West Virginia.

(b) The Legislature further finds that the State of West Virginia should inform state taxpayers about these direct or indirect expenditures, the objectives of the expenditures, and whether the state met the intended objectives of the expenditures.

(c) The Legislature further finds that any funds deposited into the Grant Recovery Fund pursuant to §12-4-14(e)(10) of this code should be appropriated by the Legislature to the granting body that originally granted the funds to a grantee or subgrantee.

**§5B-10-3. Definitions.**

For the purpose of this article:

“Auditor” means the State Auditor of West Virginia, by himself or herself, or by any person appointed, designated, or approved by the State Auditor to perform the service.

“Business type” means the legal form of organization of a corporate parent or recipient corporation, including, but not limited to, a corporation, partnership, sole proprietorship, or limited liability company.

“Corporate parent” means any person, association, corporation, joint venture, partnership, or other entity that owns or controls 50 percent or more of a recipient corporation.

“Confidential information” means any internal, deliberative, preliminary, proprietary, personal, or protected economic development or taxpayer information as defined in §5B-10-6 of this code, §11-10-5d of this code, or Chapter 29B of this code, that is exempt from public disclosure.

“Date of subsidy” means the date that a granting body provides the initial monetary value of a development subsidy to a recipient corporation: *Provided*, That where the subsidy is for the installation of new equipment, such date shall be the date the recipient corporation puts the equipment into service: *Provided, however*, That where the subsidy is for improvements to property, such date shall be the date the improvements are finished, or the date the recipient corporation occupies the property, whichever is earlier.

“Development subsidy” means any financial transaction of public funds with an aggregate value of at least \$10,000 for the purpose of stimulating economic development within the state, including, but not limited to, bonds, grants, loans, loan guarantees, enterprise zones,



empowerment zones, tax increment financing, sponsorships, fee waivers, land price subsidies, matching funds, tax abatements, tax exemptions, and tax credits.

“Duration of subsidy” means as many years as a subsidy benefits a recipient corporation, such as the time period of a grant, the number of years a tax credit may be claimed and/or carried forward, the number of years or term length of a loan, or the number of years a property tax reduction applies.

“Full-time job” means a job in which an individual is employed by a recipient corporation for at least 35 hours per week.

“Granting body” means any agency, board, office, public-private partnership, public benefit corporation or authority of the state or local government that provides a development subsidy to a recipient corporation.

“NAICS code” means the assigned code maintained by the North American Industry Classification System which describes a particular industry.

“New Employee” means a full-time employee who represents a net increase in the number of individuals employed by the recipient corporation in the state. “New employee” does not include an employee who performs a job that was previously performed by another employee of the recipient corporation if that job existed for at least six months before hiring the employee.

“Official report” means a formal, written report prepared by a granting body delivered to a third party, including, but not limited to, the Joint Committee on Government and Finance, Governor’s Office, or the public.

“Part-time job” means a job in which an individual is employed by a recipient corporation for less than 35 hours per week.

“Project site” means the site of a project for which any development subsidy is provided, as specified by street address, city name, and zip code.

“Recipient corporation” means any person, association, corporation, joint venture, partnership or other entity that receives a development subsidy.

“Subsidy type” means the classification of a development subsidy transaction, including, but not limited to, bonds, grants, loans, loan guarantees, enterprise zones, empowerment zones, tax increment financing, grants, fee waivers, land price subsidies, matching funds, tax abatements, tax exemptions, and tax credits.

“Subsidy value” means the face value of any and all development subsidies provided to a recipient corporation. The face value of a loan means the amount of the loan.

“Temporary job” means a job in which an individual is hired for a season or for a limited period of time.

#### **§5B-10-4. Reporting requirements.**

(a) Within 30 days of the end of the fiscal year, each granting body shall provide the Auditor with the information required in §5B-10-6 of this code for each development subsidy provided to

a recipient corporation by a granting body: *Provided*, That no development subsidy approved and legally obligated by the State of West Virginia shall be exempt from disclosure under this article.

(b) The Auditor shall provide guidance to each granting body regarding the standard and manner of reporting specified in this section.

(c) The Auditor may accept one or multiple official reports of a granting body to satisfy the requirements of this section provided the information provided in the official reports discloses the information required by §5B-10-6 of this code.

(d) The West Virginia Department of Economic Development may fulfill the requirements of this section on behalf of any granting bodies.

(e) The West Virginia Department of Economic Development may fulfill the requirements of this section by providing any agreements entered into or signed by the West Virginia Department of Economic Development which obligates public funds as of the date the agreement is entered into, signed or otherwise made public.

#### **§5B-10-5. Auditor's searchable economic development website created.**

No later than January 1, 2022, the Auditor shall develop and make publicly available a searchable financial transparency website containing the information specified in §5B-10-6 of this code.

#### **§5B-10-6. Contents of the searchable website.**

(a) The Auditor shall include as part of the searchable economic development transparency website the following content for each fiscal year and the previous three fiscal years:

(1) The name of the recipient corporation of a development subsidy: *Provided*, That if a name of a recipient corporation of a development subsidy be considered confidential information, the granting body shall provide the business type of the recipient corporation instead of the name;

(2) The name of the corporate parent of the recipient corporation, if applicable: *Provided*, That should a name of a corporate parent of a recipient corporation of a development subsidy be considered confidential information, the granting body shall provide the business type of the corporate parent instead of the name;

(3) The project site: *Provided*, That should the project site be considered confidential information, the granting body shall provide the city, state, and zip code, but not the street address;

(4) The NAICS code or codes of the recipient corporation;

(5) The date of subsidy;

(6) The subsidy value;

(7) The duration of subsidy;

(8) The subsidy type;

(9) The number of new employees the development subsidy is expected to create within the duration of subsidy, classified by full-time jobs, part-time jobs, and temporary jobs;

(10) The number of new employees the development subsidy has actually created within the duration of subsidy, classified by full-time jobs, part-time jobs, and temporary jobs: *Provided*, That this number may be estimated if an accurate count is not available, but the granting body shall clearly disclose that the reported number is an estimate;

(11) Any other direct or indirect benefits to the state the granting body intends the development subsidy to achieve, including, but not limited to, creation of public infrastructure, vocational training, apprenticeships, workforce development, or state tourism visitor or permanent resident population increases;

(12) Any other direct or indirect benefit to the state actually achieved by the development subsidy, including, but not limited to, creation of public infrastructure, vocational training, apprenticeships, workforce development, or state tourism visitor or permanent resident population increases; and

(13) The name or names of the granting body or bodies providing the development subsidy.

#### **§5B-10-7. Confidentiality.**

(a) Nothing in this article may be construed as requiring the West Virginia Department of Economic Development or the West Virginia Tax Department to release confidential information as defined in this article.

(b) If information regarding a development subsidy is confidential information, a granting body shall redact only those confidential items but shall disclose any other information pertaining to a development subsidy that is not confidential information.

(c) The Auditor may consult with the granting body to determine the confidentiality of development subsidy data required in §5B-10-6 of this code and determine the appropriate disclosures on the searchable economic development website created in §5B-10-5 of this code to preserve confidentiality.

(d) The Auditor shall identify any redacted items not appearing on the searchable economic development transparency website and the justification as to why the items were redacted.

#### **§5B-10-8. Source and accuracy of information; failure to report.**

(a) To fulfill the requirements of this article, a granting body may independently compile the information required in §5B-10-6 of this code or request the information from a recipient corporation.

(b) A granting body shall review information received from a recipient corporation to ensure it is reasonably accurate but is not required to audit or certify the accuracy of the information.

(c) The Auditor shall publish a list on the searchable economic development transparency website detailing any granting body or recipient corporation who fails to comply with the requirements of this article.

(d) The Auditor shall publish a list on the searchable economic development transparency website detailing any granting body or recipient corporation who intentionally submits false, misleading, or fraudulent information: *Provided*, That the Auditor shall notify the Joint Committee on Government and Finance of any granting body or recipient corporation who intentionally submits false, misleading, or fraudulent information to the Auditor.

**§5B-10-9. Public hearings.**

The Auditor may conduct public hearings or training sessions to assist any recipient corporation or granting body in complying with the requirements of this article.

**ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.**

**§12-4-14. West Virginia Grant Transparency and Accountability Act; Accountability of grantees receiving state funds or grants; procedures, reporting, auditing, investigations, and recovery; sworn statements by volunteer fire departments; rule making, criminal penalties.**

(a) This section may be cited as The West Virginia Grant Transparency and Accountability Act. The West Virginia Grant Transparency and Accountability Act is intended to develop a coordinated, nonredundant process for the effective oversight and monitoring of grant recipients, thereby ensuring quality programs and limiting fraud, waste, and abuse.

~~(a)~~ (b) For the purposes of this section:

(1) "Grantor" means a state spending unit awarding a state grant.

(2) "Grantee" means any entity receiving a state grant, including a state spending unit, local government, corporation, partnership, association, individual, or other legal entity.

(3) "Subgrantee" means an entity, including a state spending unit, local government, corporation, partnership, association, individual, or other legal entity, who receives grant money from a grantee who was awarded a state grant.

~~(3)~~ (4) "Report" means an engagement, such as an agreed-upon procedures engagement or other attestation engagement, performed and prepared by a certified public accountant to test whether state grants were spent as intended. The term "report" does not mean a full-scope audit or review of the person receiving state funds.

~~(4)~~ (5) "State grant" means funding provided by a state spending unit, regardless of the original source of the funds, to a grantee upon application for a specific purpose. The term "state grant" does not include: (A) Payments for goods and services purchased by a state spending unit; (B) compensation to state employees and public officials; (C) reimbursements to state employees and public officials for travel or incidental expenses; (D) grants of student aid; (E) government transfer payments; (F) direct benefits provided under state insurance and welfare programs; (G) funds reimbursed to a person for expenditures made for qualified purposes when receipts for the expenditures are required prior to receiving the funds; (H) retirement benefits; and (I) federal pass-through funds that are subject to the federal Single Audit Act Amendments of 1996, 31 U.S.C. § 7501 *et seq.* The term "state grant" does not include formula distributions to volunteer and part-volunteer fire departments and fire companies made pursuant to §33-3-14d, §33-3-33, §33-12C-

7 of this code and does not include money received from the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code.

(6) "West Virginia debarred list" means the list maintained by the State Auditor that contains the names of individuals and entities that are ineligible, either temporarily or permanently, from receiving an award of grant funds from the state.

(7) "State Auditor" means the State Auditor of West Virginia, by himself or herself, or by any person appointed, designated, or approved by the State Auditor to perform the service.

(8) "Stop payment order" means a communication from the state grant-making agency to the State Auditor and the State Treasurer, following procedures by the State Auditor, causing the cessation of payments to a grantee or subgrantee as a result of the grantee or subgrantee's failure to comply with one or more terms of the grant or subgrant, violations of law, or the initiation of an audit or investigation.

(9) "Stop payment procedure" means the procedure created by the State Auditor which effects a stop payment order or the lifting of a stop payment order.

~~(b)~~ (c) (1) Any grantee who receives one or more state grants in the amount of \$50,000 or more in the aggregate in a state's fiscal year shall file with the grantor and the State Auditor a report of the disbursement of the state grant funds. When the grantor causes an audit, by an independent certified public accountant, to be conducted of the grant funds, the audit is performed using generally accepted government auditing standards, and a copy of the audit is available for public inspection, no report is required to be filed under this section. An audit performed that complies with Office of Management and Budget circular A-133, and submitted within the period provided in this section may be substituted for the report.

(2) Any grantee who receives a state grant in an amount less than \$50,000 or who is not required to file a report because an audit has been conducted or substituted as provided by subdivision (1) of this subsection shall file with the grantor and State Auditor a sworn statement of expenditures made under the grant.

(3) Subgrant of grant funds – If any grantee obtains grant funds and grants any part or all of those funds to a subgrantee for a specific purpose or purposes, the granted funds shall be treated as a state grant.

~~(3)~~ (4) Reports and sworn statements of expenditures required by this subsection section shall be filed within two years of the end of the grantee's fiscal year in which the disbursement of state grant funds by the grantor was made. The report shall be made by an independent certified public accountant at the cost of the grantee. State grant funds may be used to pay for the report if the applicable grant provisions allow. The scope of the report is limited to showing that the state grant funds were spent for the purposes intended when the grant was made.

(5) In the event the State Auditor determines that applicable reporting or record keeping provisions for state grants are delinquent or not in compliance with this code, the State Auditor shall notify the State Treasurer and no further grant funds appropriated to the grantor agency under the specific grant shall be encumbered or expended until such time as the State Auditor determines that all applicable reporting or record keeping provisions are brought into compliance: *Provided*, That such suspension of funding does not violate federal law or regulations

or unreasonably prevent or detrimentally impact the ability of the agency to receive federal support or funding.

(6) Each State grant-making agency shall designate a Chief Accountability Officer, to the extent possible from within its existing staff, who shall serve as a liaison to the State Auditor and shall be responsible for the state agency's implementation of and compliance with the law, rules, and terms of grants. Such position may be held concurrently with any other designated position.

~~(e)(d)(1)~~ Grantor agencies or the State Auditor shall issue stop payment orders for failure to file required reports. Any grantee failing to file a required report or sworn statement of expenditures within the two-year period ~~provided in subdivision (3), subsection (b)~~ as provided in ~~of~~ this section for state grant funds is barred from subsequently receiving state grants until the grantee has filed the report or sworn statement of expenditures and is otherwise in compliance with the provisions of this section.

(2) Any grantor of a state grant shall report any grantee failing to file a required report or sworn statement of expenditures within the required period provided in this section to the ~~Legislative~~ State Auditor for purposes of debarment from receiving state grants.

(3) The State Auditor shall maintain a searchable and publicly accessible database listing all awarded state grants. All grantors shall provide a list of grantees and subgrantees to the State Auditor and all other information regarding grant funds and grantees as required by law or rule.

~~(d)(e)(1)~~ The state agency administering the state grant shall notify the grantee of the reporting requirements set forth in this section.

(2) All grantors awarding state grants shall, prior to awarding a state grant, ~~take reasonable actions to~~ verify that the grantee is not barred from receiving state grants pursuant to this section. The verification process shall, at a minimum, include:

(A) A requirement that the grantee seeking the state grant provide a sworn statement from an authorized representative that the grantee has filed all reports and sworn statements of expenditures for state grants received as required under this section; and

(B) Confirmation from the ~~Legislative Auditor~~ State Auditor by the grantor that the grantee has not been identified as one who has failed to file a report or sworn statement of expenditures under this section. Confirmation may be accomplished by accessing the computerized database provided ~~for in subsection (e)~~ of this section.

(3) If any report or sworn statement of expenditures submitted pursuant to the requirements of this section provides evidence of a reportable condition or violation, the grantor shall provide a copy of the report or sworn statement of expenditures to the ~~Legislative Auditor~~ State Auditor within 30 days of receipt by the grantor.

(4) The grantor and State Auditor shall maintain copies of reports and sworn statements of expenditures required by this section and make the reports or sworn statements of expenditures available for public inspection, as well as for use in audits and performance reviews of the grantor.

(5) Stop payment procedures – The State Auditor, in cooperation with state grant-making agencies, shall promulgate legislative, procedural, and interpretive rules in accordance with the

provisions of §29A-3-1 et seq. of this code in implementing the provisions of this section which shall include, but not be limited to:

(A) Procedures concerning issuing and lifting stop payments and other corrective actions;

(B) Factors to be considered in determining whether to issue a stop payment order including whether or not a stop payment order is in the best interest of the state;

(C) Factors to be considered in determining whether a stop payment order should be lifted; and

(D) Procedures for notification to the grantee or subgrantee of the issuance of a stop payment order, the lifting of a stop payment order, and any other related information.

(6) Informal Conference – Whenever a grantor agency reasonably believes that grant funds are subject to recovery, the grantor agency shall provide the grantee the opportunity for at least one informal conference to determine the facts and issues and to resolve any conflicts before taking any formal recovery actions.

(7) Formal Procedures for Recovery –

(A) If a grantor agency determines that certain grant funds are to be recovered, then, prior to taking any action to recover the grant funds, the grantor agency shall provide the grantee of the funds a written notice of the intended recovery. This notice shall identify the funds and the amount to be recovered and the specific facts which permit recovery.

(B) A grantee shall have 35 days from the receipt of the notice required in paragraph (A) of this subdivision to return the grant funds or request a hearing in writing to show why recovery is not justified or proper.

(C) If a grantee requests a hearing pursuant to paragraph (B) of this subdivision, then:

(i) The hearing shall be conducted under §29A-5-1 et seq. of this code, and be presided over by the grantor agency head or their designee;

(ii) The grantor agency shall hold the hearing at which the grantee or designated representative may present evidence and witnesses to show why recovery should not be permitted; and

(iii) After the conclusion of the hearing, the grantor agency shall make a final decision and issue a written final recovery order in compliance with §29A-5-3 of this code and send a copy of the order to the grantee and the State Auditor.

(D)(i) If a grantee requests a hearing pursuant to paragraph (B) of this subdivision then the grantor agency may not take any action of recovery until at least 35 days after the grantor agency has issued a final recovery order pursuant to the requirements of paragraph (C) of this subdivision.

(ii) If a grantee does not return the grant funds or request a hearing as permitted in paragraph (B) of this subdivision, then the grantor agency may proceed with recovery of the grant funds identified in the notice issued pursuant to the requirements of paragraph (A) of this subdivision,

at any time after the expiration of the 35 day request period established in paragraph (B) of this subdivision.

(8) Recovery of Grant Funds by Grantor Agency – Any grant funds which have been misspent or are being improperly held are subject to recovery by the grantor agency which made the grant. The grantor agency making the grant shall take affirmative and timely action to recover all misspent or improperly held grant funds. In order to effectuate the recovery of such grant funds, the grantor agency making the grant may use any one or a combination of the following:

(A) Offset the amounts against existing grants or future grants to be made by the grantor agency making the recovery;

(B) Request offsets of the amounts from existing grants or future grants to be made by other grantor agencies;

(C) Initiate any debt collection method authorized by law against any private person, business, or entity;

(D) Remove the grantee from the grantor agency's programs and debar the grantee's participation in future grant programs for a period not to exceed three years or until removed from the debarred list; or

(E) Request further action under subdivision (9) of this subsection to recover grant funds and otherwise enforce all applicable laws.

(9) Recovery of State Grant Funds – The Attorney General, independently or on behalf of the State Auditor, may take any action within his or her authority to recover any grant funds which have been misapplied or are being improperly held and have all the powers of collection established in this act in addition to any other powers authorized by law, including, without limitation, to file lawsuits to recover grant funds.

(10) All grant funds, whose use is not restricted by law or otherwise appropriated, which are recovered by the grantor, or State Auditor, and expired or unexpended grant funds remaining at grant completion or termination, shall be deposited in a special revenue fund, which is hereby created and established in the State Treasury to be known as the Grant Recovery Fund. The moneys in the fund, with all interest or other earnings thereon, shall be expended only upon appropriation by the Legislature.

~~(5) (11)~~ The Secretary of the Department of Administration State Auditor has authority to promulgate procedural and interpretive rules and propose legislative rules for promulgation in accordance with the provisions of §29A-3-1 et seq. of this code to assist in implementing the provisions of this section. The rules shall set forth uniform administrative requirements and reporting procedures for state grants and subgrants to ensure compliance. State granting agencies shall not impose additional or inconsistent requirements unless specifically required by state or federal law.

(12) Conflicts of interest – The State Auditor shall adopt rules regarding conflict of interest policies for state grants. Grantors, grantees, and subgrantees must disclose in writing any potential conflicts of interest to the grant applicant prior to awarding the grant.



~~(e)~~(f)(1) Any state agency administering a state grant shall, in the manner designated by the ~~Legislative Auditor~~ State Auditor, notify the ~~Legislative Auditor~~ State Auditor of the maximum amount of funds to be disbursed, the identity of the grantee authorized to receive the funds, the grantee's fiscal year and federal employer identification number, and the purpose and nature of the state grant within 30 days of making the state grant or authorizing the disbursement of the funds, whichever is later.

(2) The State Treasurer shall provide the Legislative Auditor the information concerning formula distributions to volunteer and part-volunteer fire departments, made pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code, the Legislative Auditor requests, and in the manner designated by the Legislative Auditor.

(3) The ~~Legislative Auditor~~ State Auditor shall maintain a debarred list identifying grantees who have failed to file reports and sworn statements required by this section. The list ~~may~~ shall be in the form of a computerized database that ~~may~~ shall be accessed accessible by state agencies and the public over the Internet, unless public disclosure would violate federal law or regulations.

~~(f)~~ (g) An audit of state grant funds may be authorized at any time by the Joint Committee on Government and Finance to be conducted by the State Auditor in cooperation with the Legislative Auditor at no cost to the grantee.

~~(g)~~(h) Any report submitted pursuant to the provisions of this section may be filed electronically in accordance with the provisions of §39A-1-1 *et seq.* of this code.

~~(h)~~(i) Any grantee who files a fraudulent sworn statement of expenditures under subsection (b) of the section, a fraudulent sworn statement under subsection (d) of this section, or a fraudulent report under this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(j) Prohibition on use of grant funds for prohibited political activity –

(1) For the purpose of this section, "prohibited political activity" means activity directed toward the success or failure of a political party, candidate for political office, or ballot issue, and includes, without limitation, express advocacy for the election or defeat of a political party, candidate, or ballot issue.

(2) Grantors, grantees, subgrantees, and personnel thereof shall not knowingly use grant funds, or goods or services purchased with grant funds, to engage, either directly or indirectly, in a prohibited political activity.

(3) Grantors, grantees, subgrantees and personnel thereof shall not be knowingly compensated from grant funds for time spent engaging in a prohibited political activity.

(4) Nothing in this section shall prohibit any organization described in 26 U.S.C. §501(c)(3) or 26 U.S.C. §501(c)(4) receiving a grant from the state from engaging in any federally permissible activity regarding advocacy, indirect and direct lobbying, and political activity, provided that the specific funds acquired by a grant from the state or grantor shall not be used for those activities that are permitted by federal law but prohibited by this section.

(5) A grantor, grantee, subgrantee, or personnel thereof who knowingly uses grant funds for prohibited political activity in violation of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(k) Reporting – Effective on or before December 31, 2022 and every three years thereafter, the State Auditor shall submit to the Joint Legislative Committee on Government and Finance a report that demonstrates the efficiencies, cost savings, and reductions in fraud, waste and abuse. The report shall include, but not be limited to, facts describing:

(1) The number and names of entities placed on the West Virginia Debarred List;

(2) The number of stop payment orders issued to grantees;

(3) Any savings realized as a result of the implementation of this act;

(4) A statement of funds recovered and funds in the recovery process;

(5) Any reductions in the number of duplicative audit report reviews; and

(6) The overall number of state grants awarded that given year and the total amount of dollars awarded by each state agency.

The bill (Eng. Com. Sub. for H. B. 2573), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2674**, Relating to the administration of anesthetics.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

**Eng. Com. Sub. for House Bill 2720**, Creating a Merit-Based Personnel System within DOT.

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

The following amendment to the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

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

**CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE  
GOVERNMENT.**

**ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.**

**§5F-2-8. Special merit-based personnel system for Department of Transportation employees.**

(a) In order to attract and retain employees in the Department of Transportation, the Secretary of Transportation shall establish a system of personnel administration based on merit principles

and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state employment. All appointments and promotions to positions shall be made solely on the basis of merit and fitness for the position.

(b) The Department of Transportation personnel system shall be founded on effective performance management principles that set clear goals, provide efficient and effective services for our citizens, and appraise and reward employees for being responsible and performing as required.

(c) Beginning on January 1, 2022, notwithstanding any provision of this code or any rule to the contrary, employees and positions within the various agencies, boards, commissions, and divisions within the Department of Transportation currently governed by the provisions of §29-6-1 et seq. of this code shall be subject to the personnel system created pursuant to this section: *Provided*, That such employees and positions shall be deemed to retain their classified or classified-exempt status and all rights and privileges thereof. The employees of the Department of Transportation shall be afforded due process protections through §6C-2-1 et seq. of this code or other procedures established by the department that assure all of the protections required by law.

(d) The Department of Transportation personnel system is not exempt from the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices related to the employment process.

(e) The Department of Transportation personnel system may not be applied in any manner that would disqualify the department or its agencies, boards, commissions, or divisions for eligibility for any federal funding or assistance.

(f) The Division of Personnel shall, upon request of the Secretary of Transportation, take any action necessary to assist the Department of Transportation in completing the transition to the department's personnel system in an orderly and efficient manner.

(g) The Secretary of Transportation may propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code and may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code to implement the provisions of this section.

## CHAPTER 17. ROADS AND HIGHWAYS.

### ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.

#### §17-2A-24. Special employment procedures for Division of Highways personnel.

[Repealed.]

The bill (Eng. Com. Sub. for H. B. 2720), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2794**, To extend the Neighborhood Investment Program Act to July 1, 2026.

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

**Eng. Com. Sub. for House Bill 2884**, To make changes to the FOIA law to protect public utility customer databases from disclosure, with exceptions.

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

**Eng. Com. Sub. for House Bill 2927**, Adding Caregiving expenses to campaign finance expense.

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

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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

## **ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.**

### **§3-8-1a. Definitions.**

As used in this article, the following terms have the following definitions:

(1) "Ballot issue" means a constitutional amendment, special levy, bond issue, local option referendum, municipal charter or revision, an increase or decrease of corporate limits, or any other question that is placed before the voters for a binding decision.

(2) "Billboard advertisement" means a commercially available outdoor advertisement, sign, or similar display regularly available for lease or rental to advertise a person, place, or product.

(3) "Broadcast, cable, or satellite communication" means a communication that is publicly distributed by a television station, radio station, cable television system, or satellite system.

(4) "Candidate" means an individual who:

(A) Has filed a certificate of announcement under §3-5-7 of this code or a municipal charter;

(B) Has filed a declaration of candidacy under §3-5-23 of this code;

(C) Has been named to fill a vacancy on a ballot; or

(D) Has declared a write-in candidacy or otherwise publicly declared his or her intention to seek nomination or election for any state, district, county, municipal, or party office to be filled at any primary, general, or special election.

(5) "Candidate's committee" means a political committee established with the approval of or in cooperation with a candidate or a prospective candidate to explore the possibilities of seeking a particular office or to support or aid his or her nomination or election to an office in an election cycle. If a candidate directs or influences the activities of more than one active committee in a current campaign, those committees shall be considered one committee for the purpose of contribution limits.

(6) "Caregiving services" means direct care, protection, and supervision of a child, or other person with a disability or a medical condition, for which a candidate has direct caregiving responsibility. For the purposes of this article, the caregiving service expense incurred shall be in direct connection with the candidate's campaign activities during the current election cycle.

~~(6)~~ (7) "Caucus campaign committee" means a West Virginia House of Delegates or Senate political party caucus campaign committee that receives contributions and makes expenditures to support or oppose one or more specific candidates or slates of candidates for nomination, election, or committee membership.

~~(7)~~ (8) "Clearly identified" means that the name, nickname, photograph, drawing, or other depiction of the candidate appears, or the identity of the candidate is otherwise apparent through an unambiguous reference, such as "the Governor", "your Senator", or "the incumbent", or through an unambiguous reference to his or her status as a candidate, such as "the Democratic candidate for Governor" or "the Republican candidate for Supreme Court of Appeals".

~~(8)~~ (9) "Contribution" means a gift, subscription, loan, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance, promise of money, or other tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for the purpose of influencing the nomination, election, or defeat of a candidate.

(A) A coordinated expenditure is a contribution for the purposes of this article.

(B) An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned. A contribution does not include volunteer personal services provided without compensation: *Provided*, That a nonmonetary contribution is to be considered at fair market value for reporting requirements and contribution limitations.

~~(9)~~ (10) "Coordinated expenditure" is an expenditure made in concert with, in cooperation with, or at the request or suggestion of a candidate or candidate's committee and meeting the criteria provided in §3-8-9a of this code.

~~(10)~~ (11) "Corporate political action committee" means a political action committee that is a separate segregated fund of a corporation that may only accept contributions from its restricted group as outlined by the rules of the State Election Commission.

~~(11)~~ (12) "Direct costs of purchasing, producing, or disseminating electioneering communications" means:

(A) Costs charged by a vendor, including, but not limited to, studio rental time, compensation of staff and employees, costs of video or audio recording media and talent, material and printing costs, and postage; or

(B) The cost of air time on broadcast, cable, or satellite radio and television stations, the costs of disseminating printed materials, studio time, use of facilities, and the charges for a broker to purchase air time.

~~(12)~~ (13) "Disclosure date" means either of the following:

(A) The first date during any calendar year on which any electioneering communication is disseminated after the person paying for the communication has spent a total of \$5,000 or more for the direct costs of purchasing, producing, or disseminating electioneering communications; or

(B) Any other date during that calendar year after any previous disclosure date on which the person has made additional expenditures totaling \$5,000 or more for the direct costs of purchasing, producing, or disseminating electioneering communications.

~~(13)~~ (14) "Election" means any primary, general, or special election conducted under the provisions of this code or under the charter of any municipality at which the voters nominate or elect candidates for public office. For purposes of this article, each primary, general, special, or local election constitutes a separate election. This definition is not intended to modify or abrogate the definition of the term "nomination" as used in this article.

~~(14)~~ (15) (A) "Electioneering communication" means any paid communication made by broadcast, cable or satellite signal, mass mailing, telephone bank, billboard advertisement, or publication in any newspaper, magazine, or other periodical that:

(i) Refers to a clearly identified candidate for Governor, Secretary of State, Attorney General, Treasurer, Auditor, Commissioner of Agriculture, Supreme Court of Appeals, or the Legislature;

(ii) Is publicly disseminated within:

(I) Thirty days before a primary election in which the nomination for office sought by the candidate is to be determined; or

(II) Sixty days before a general or special election in which the office sought by the candidate is to be filled; and

(iii) Is targeted to the relevant electorate.

(B) "Electioneering communication" does not include:

(i) A news story, commentary, or editorial disseminated through the facilities of any broadcast, cable or satellite television, radio station, newspaper, magazine, or other periodical publication not owned or controlled by a political party, political committee, or candidate: *Provided*, That a news story disseminated through a medium owned or controlled by a political party, political committee, or candidate is nevertheless exempt if the news is:

(I) A bona fide news account communicated in a publication of general circulation or through a licensed broadcasting facility; and

(II) Is part of a general pattern of campaign-related news that gives reasonably equal coverage to all opposing candidates in the circulation, viewing, or listening area;

(ii) Activity by a candidate committee, party executive committee, a caucus campaign committee, or a political action committee that is required to be reported to the State Election Commission or the Secretary of State as an expenditure pursuant to §3-8-5 of this code or the rules of the State Election Commission or the Secretary of State promulgated pursuant to such provision: *Provided*, That independent expenditures by a party executive committee, caucus

committee, or a political action committee required to be reported pursuant to §3-8-2 of this code are not exempt from the reporting requirements of this section;

(iii) A candidate debate or forum conducted pursuant to rules adopted by the State Election Commission or the Secretary of State or a communication promoting that debate or forum made by or on behalf of its sponsor;

(iv) A communication paid for by any organization operating under Section 501(c)(3) of the Internal Revenue Code of 1986;

(v) A communication made while the Legislature is in session which, incidental to promoting or opposing a specific piece of legislation pending before the Legislature, urges the audience to communicate with a member or members of the Legislature concerning that piece of legislation;

(vi) A statement or depiction by a membership organization in existence prior to the date on which the individual named or depicted became a candidate, made in a newsletter or other communication distributed only to bona fide members of that organization;

(vii) A communication made solely for the purpose of attracting public attention to a product or service offered for sale by a candidate or by a business owned or operated by a candidate which does not mention an election, the office sought by the candidate, or his or her status as a candidate; or

(viii) A communication, such as a voter's guide, which refers to all of the candidates for one or more offices, which contains no appearance of endorsement for or opposition to the nomination or election of any candidate and which is intended as nonpartisan public education focused on issues and voting history.

~~(15)~~ (16) "Expressly advocating" means any communication that:

(A) Uses phrases such as "vote for the Governor", "re-elect your Senator", "support the incumbent nominee for Supreme Court", "cast your ballot for the Republican challenger for House of Delegates", "Smith for House", "Bob Smith in '04", "vote Pro-Life", or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Hickory", "defeat" accompanied by a picture of one or more candidates, "reject the incumbent";

(B) Communicates campaign slogans or individual words that can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, such as posters, bumper stickers, advertisements, etc., which say "Smith's the One", "Jones '06", "Baker", etc.; or

(C) Is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

~~(16)~~ (17) "Financial agent" means any individual acting for and by himself or herself, or any two or more individuals acting together or cooperating in a financial way to aid or take part in the nomination or election of any candidate for public office, or to aid or promote the success or defeat of any political party at any election.

~~(17)~~ (18) “Financial transactions” means all contributions or loans received and all repayments of loans or expenditures made to promote the candidacy of any person by any candidate or any organization advocating or opposing the nomination, election, or defeat of any candidate to be voted on.

~~(18)~~ (19) “Firewall” means a policy designed and implemented to prohibit the flow of information between employees or consultants providing services for the person paying for a communication and those employees or consultants currently or previously providing services to a candidate, or to a committee supporting or opposing a candidate, clearly identified in the communication.

~~(19)~~ (20) “Foreign national” means the following:

(A) A foreign principal, as such term is defined in 22 U.S.C. §611(b), which includes:

(i) A government of a foreign country;

(ii) A foreign political party;

(iii) A person outside of the United States, unless it is established that such person:

(I) Is an individual and a citizen of the United States; or

(II) That such person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

(iv) A partnership, association, corporation, organization, or other combination of persons organized under the laws of, or having its principal place of business in, a foreign country.

(B) An individual who is not a citizen of the United States or a national of the United States, as defined in 8 U.S.C. §1101(a)(22), and who is not lawfully admitted for permanent residence, as defined by 8 U.S.C. §1101(a)(20).

~~(20)~~ (21) “Fund-raising event” or “fundraiser” means an event such as a dinner, reception, testimonial, cocktail party, auction, or similar affair through which contributions are solicited or received.

~~(21)~~ (22) “In concert or cooperation with or at the request or suggestion of” means that a candidate or his or her agent consulted with:

(A) The sender regarding the content, timing, place, nature, or volume of a particular communication or communication to be made; or

(B) A person making an expenditure that would otherwise offset the necessity for an expenditure of the candidate or candidate’s committee.

~~(22)~~ (23) “Independent expenditure” means an expenditure by a person:

(A) Expressly advocating the election or defeat of a clearly identified candidate, including supporting or opposing the candidates of a political party; and



(B) That is not made in concert or cooperation with or at the request or suggestion of such candidate, his or her agents, the candidate's authorized political committee, or a political party committee or its agents.

An expenditure which does not meet the criteria for an independent expenditure is considered a contribution.

~~(23)~~ (24) "Local" refers to the election of candidates to a city, county, or municipal office and any issue to be voted on by only the residents of a particular political subdivision.

~~(24)~~ (25) "Mass mailing" means a mailing by United States mail, facsimile, or electronic mail of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period. For purposes of this subdivision, "substantially similar" includes communications that contain substantially the same template or language, but vary in nonmaterial respects such as communications customized by the recipient's name, occupation, or geographic location.

~~(25)~~ (26) "Membership organization" means a group that grants bona fide rights and privileges, such as the right to vote, to elect officers or directors, and the ability to hold office to its members and which uses a majority of its membership dues for purposes other than political purposes. "Membership organization" does not include organizations that grant membership upon receiving a contribution.

~~(26)~~ (27) "Name" means the full first name, middle name, or initial, if any, and full legal last name of an individual and the full name of any association, corporation, committee, or other organization of individuals, making the identity of any person who makes a contribution apparent by unambiguous reference.

~~(27)~~ (28) "Person" means an individual, corporation, partnership, committee, association, and any other organization or group of individuals.

~~(28)~~ (29) "Political action committee" means a committee organized by one or more persons, the primary purpose of which is to support or oppose the nomination or election of one or more candidates. The following are types of political action committees:

- (A) A corporate political action committee, as that term is defined in this section;
- (B) A membership organization, as that term is defined in this section; and
- (C) An unaffiliated political action committee, as that term is defined in this section.

~~(29)~~ (30) "Political committee" means any candidate committee, political action committee, or political party committee.

~~(30)~~ (31) "Political party" means a political party as that term is defined by §3-1-8 of this code or any committee established, financed, maintained, or controlled by the party, including any subsidiary, branch, or local unit thereof and including national or regional affiliates of the party.

~~(31)~~ (32) "Political party committee" means a committee established by a political party or political party caucus for the purposes of engaging in the influencing of the election, nomination, or defeat of a candidate in any election.

~~(32)~~ (33) "Political purposes" means supporting or opposing the nomination, election, or defeat of one or more candidates or the passage or defeat of a ballot issue, supporting the retirement of the debt of a candidate or political committee or the administration or activities of an established political party or an organization which has declared itself a political party, and determining the advisability of becoming a candidate under the pre-candidacy financing provisions of this chapter.

~~(33)~~ (34) "Targeted to the relevant electorate" means a communication which refers to a clearly identified candidate for statewide office or the Legislature and which can be received by 140,000 or more individuals in the state in the case of a candidacy for statewide office, 8,220 or more individuals in the district in the case of a candidacy for the State Senate, and 2,410 or more individuals in the district in the case of a candidacy for the House of Delegates.

~~(34)~~ (35) "Telephone bank" means telephone calls that are targeted to the relevant electorate, other than telephone calls made by volunteer workers, regardless of whether paid professionals designed the telephone bank system, developed calling instructions, or trained volunteers.

~~(35)~~ (36) "Unaffiliated political action committee" means a political action committee that is not affiliated with a corporation or a membership organization.

**§3-8-9. Lawful and unlawful election expenses; public opinion polls and limiting their purposes; limitation upon expenses; use of advertising agencies and reporting requirements; delegation of expenditures.**

(a) No financial agent or treasurer of a political committee shall ~~shall~~ may pay, give, or lend, either directly or indirectly, any money or other thing of value for any election expenses, except for the following purposes:

(1) For rent, maintenance, office equipment, and other furnishing of offices to be used as political headquarters and for the payment of necessary employees;

(2) In the case of a candidate who does not maintain a headquarters, for reasonable office expenses, including, but not limited to, filing cabinets and other office equipment, and furnishings, computers, computer hardware and software, scanners, typewriters, calculators, audio visual equipment, the rental of the use of the same, or for the payment for the shared use of same with the candidate's business and for the payment of necessary employees;

(3) For printing and distributing books, pamphlets, circulars, and other printed matter, radio and television broadcasting, and painting, printing, and posting signs, banners, and other advertisements, including contributions to charitable, educational, or cultural events, for the promotion of the candidate or the candidate's name, or an issue on the ballot;

(4) For renting and decorating halls for public meetings and political conventions, for advertising public meetings, and for the payment of traveling expenses of speakers and musicians at such meetings;

(5) For the necessary traveling and hotel expenses of candidates, political agents, and committees and for stationery, postage, telegrams, telephone, express, freight, and public messenger service;

(6) For preparing, circulating, and filing petitions for nomination of candidates;

(7) For examining the lists of registered voters, securing copies thereof, investigating the right to vote of the persons listed therein, and conducting proceedings to prevent unlawful registration or voting;

(8) For conveying voters to and from the polls;

(9) For securing publication in newspapers and by radio and television broadcasting of documents, articles, speeches, arguments, and any information relating to any political issue, candidate, or question or proposition submitted to a vote;

(10) For conducting public opinion poll or polls. For the purpose of this section, the phrase "conducting of public opinion poll or polls" shall mean and be limited to the gathering, collection, collation, and evaluation of information reflecting public opinion, needs, and preferences as to any candidate, group of candidates, party, issue, or issues. No such poll may be deceptively designed or intentionally conducted in a manner calculated to advocate the election or defeat of any candidate or group of candidates or calculated to influence any person or persons so polled to vote for or against any candidate, group of candidates, proposition, or other matter to be voted on by the public at any election: *Provided*, That nothing herein may prevent the use of the results of any such poll or polls to further, promote or enhance the election of any candidate or group of candidates or the approval or defeat of any proposition or other matter to be voted on by the public at any election;

(11) For legitimate advertising agency services, including commissions, in connection with any campaign activity for which payment is authorized by subdivisions (3), (4), (5), (6), (7), (9), and (10) of this subsection;

(12) For the purchase of memorials, flowers, or citations by political party executive committees or political action committees representing a political party;

(13) For the purchase of nominal noncash expressions of appreciation following the close of the polls of an election or within 30 days thereafter;

(14) For the payment of dues or subscriptions to any national, state, or local committee of any political party;

(15) For contributions to a county party executive committee, state party executive committee, or a caucus campaign committee;

(16) For transfers to any national, state, or local committee of any political party when that committee is acting in the role of a vendor: *Provided*, That no such transfer may involve any coordination between the candidate and the political party committee without being considered as a contribution;

(17) For payment for legal and accounting services rendered to a candidate or candidate committee if the services are solely related to the candidacy or campaign;

(18) For payment for food and drink for campaign-related purposes;

(19) For the payment of any required filing fees associated with the campaign, except that a candidate may not pay any fines assessed against the candidate or the candidate's committee pursuant to this article; ~~and~~

(20) For contributions to a candidate committee: *Provided*, That a candidate committee may not contribute to another candidate committee except as otherwise provided by §3-8-10 of this code; and

(21) For expenses related to caregiving services.

(b) A political action committee may not contribute to another political action committee or receive contributions from another political action committee: *Provided*, That a political action committee may receive contributions from its national affiliate, if any.

(c) Every liability incurred, and payment made shall be for the fair market value of the services rendered.

(d) Every advertising agency subject to the provisions of this article shall file, in the manner and form required by §3-8-5a of this code, the financial statements required by §3-8-5 of this code at the times required therein and include therein, in itemized detail, all receipts from and expenditures made on behalf of a candidate, financial agent, or treasurer of a political party committee.

(e) Any candidate may designate a financial agent by a writing duly subscribed by the candidate which shall be in such form and filed in accordance with §3-8-4 of this code.

The bill (Eng. Com. Sub. for H. B. 2927), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2953**, To clarify that counties can hire fire fighters as paid staff and to modify the existing procedures to include a procedure of public hearing to commission a vote.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the right for amendments to be considered on that reading.

**Eng. Com. Sub. for House Bill 2962**, Relating generally to dental practice.

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

On motions of Senators Stollings, Plymale, Woelfel, and Takubo, the following amendment to the bill was reported by the Clerk:

On page three, section eight, after line thirty-seven, by inserting a new subsection, designated subsection (d), to read as follows:

(d) An expedited license to practice dentistry for foreign dental graduates who have completed a one-year dental residency program in this state: *Provided*, That the board shall promulgate emergency and legislative rules, not later than July 1, 2021, related to this expedited licensure.

Following discussion,

The question being on the adoption of the amendment offered by Senators Stollings, Plymale, Woelfel, and Takubo to the bill, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2962), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 3002**, Update road abandonment process.

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

The following amendment to the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

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

**ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.**

**§17-2A-8. Powers, duties, and responsibilities of commissioner.**

In addition to all other duties, powers, and responsibilities given and assigned to the commissioner in this chapter, the commissioner may:

(1) Exercise general supervision over the state road program and the construction, reconstruction, repair, and maintenance of state roads and highways: *Provided*, That the commissioner shall implement reasonable design techniques intended to minimize damage that may result from recurring floods within the purpose and need of the state road system;

(2) Determine the various methods of road construction best adapted to the various sections and areas of the state and establish standards for the construction and maintenance of roads and highways in the various sections and areas of the state;

(3) Conduct investigations and experiments, hold hearings and public meetings, and attend and participate in meetings and conferences within and without the state for purposes of acquiring information, making findings, and determining courses of action and procedure relative to advancement and improvement of the state road and highway system;

(4) Enter private lands to make inspections and surveys for road and highway purposes;

(5) Acquire, in the name of the ~~department~~ division, by lease, grant, right of eminent domain, or other lawful means all lands and interests and rights in lands necessary and required for roads, rights-of-way, cuts, fills, drains, storage for equipment and materials, and road construction and maintenance in general;

(6) Procure photostatic copies of any or all public records on file at the State Capitol of Virginia which may be considered necessary or proper in ascertaining the location and legal status of public road rights-of-way located or established in what is now the State of West Virginia, which when certified by the commissioner, may be admitted in evidence, in lieu of the original, in any of the courts of this state;

(7) Plan for and hold annually a school of good roads, of not less than three or more than six days' duration, for instruction of his or her employees, which is held in conjunction with West Virginia University and may be held at the university or at any other suitable place in the state;

(8) Negotiate and enter in reciprocal contracts and agreements with proper authorities of other states and of the United States relating to and regulating the use of roads and highways with

reference to weights and types of vehicles, registration of vehicles and licensing of operators, military and emergency movements of personnel and supplies, and all other matters of interstate or national interest;

(9) Classify and reclassify, locate, and relocate, expressway, trunkline, feeder, and state local service roads, and designate by number the routes within the state road system;

(10) Create, extend, or establish, upon petition of any interested party or parties or on the commissioner's own initiative, any new road or highway found necessary and proper;

(11) Exercise jurisdiction, control, supervision, and authority over local roads, outside the state road system, to the extent determined by him or her to be expedient and practicable;

(12) Discontinue, vacate, and close any road or highway, or any part of any road or highway, the continuance and maintenance of which are found unnecessary and improper, upon petition and hearing or upon investigation initiated by the commissioner. Any petition, motion, notice, decision, and order related to the discontinuance, vacating, or closing of any road or highway or part thereof shall be posted by the commissioner on the division's website available for review by the public. The division shall make virtual participation available to any person interested in participating in or attending any hearing related to such discontinuance, vacating, or closing;

(13) Close any state road while under construction or repair and provide a temporary road during the time of the construction or repair;

(14) Adjust damages occasioned by construction, reconstruction, or repair of any state road or the establishment of any temporary road;

(15) Establish and maintain a uniform system of road signs and markers;

(16) Fix standard widths for road rights-of-way, bridges, and approaches to bridges and fix and determine grades and elevations therefor;

(17) Test and standardize materials used in road construction and maintenance, either by governmental testing and standardization activities or through contract by private agencies;

(18) Allocate the cost of retaining walls and drainage projects, for the protection of a state road or its right-of-way, to the cost of construction, reconstruction, improvement, or maintenance;

(19) Acquire, establish, construct, maintain, and operate, in the name of the ~~department~~ division, roadside recreational areas along and adjacent to state roads and highways;

(20) Exercise general supervision over the construction and maintenance of airports and landing fields under the jurisdiction of the West Virginia State Aeronautics Commission, of which the commissioner is a member, and make a study and general plan of a statewide system of airports and landing fields;

(21) Provide traffic engineering services to municipalities of the state upon request of the governing body of any municipality and upon terms that are agreeably arranged;

(22) Institute complaints before the Public Service Commission or any other appropriate governmental agency relating to freight rates, car service, and movement of road materials and equipment;

(23) Invoke any appropriate legal or equitable remedies, subject to §17-2A-7 of this code, to enforce his or her orders, to compel compliance with requirements of law, and to protect and preserve the state road and highway system or any part of the system;

(24) Make and promulgate rules for the government and conduct of personnel, for the orderly and efficient administration and supervision of the state road program, and for the effective and expeditious performance and discharge of the duties and responsibilities placed upon him or her by law;

(25) Delegate powers and duties to his or her appointees and employees who shall act by and under his or her direction and be responsible to him or her for their acts;

(26) Designate and define any construction and maintenance districts within the state road system that is found expedient and practicable;

(27) Contract for the construction, improvement, and maintenance of the roads;

(28) Comply with provisions of present and future federal aid statutes and regulations, including execution of contracts or agreements with and cooperation in programs of the United States government and any proper department, bureau, or agency of the United States government relating to plans, surveys, construction, reconstruction, improvement, and maintenance of state roads and highways;

(29) Prepare budget estimates and requests;

(30) Establish a system of accounting covering and including all fiscal and financial matters of the ~~department~~ division;

(31) Establish and advance a right-of-way Acquisition Revolving Fund, a Materials Revolving Fund, and an Equipment Revolving Fund;

(32) Enter into contracts and agreements with and cooperate in programs of counties, municipalities, and other governmental agencies and subdivisions of the state relating to plans, surveys, construction, reconstruction, improvement, maintenance, and supervision of highways, roads, streets, and other travel ways when and to the extent determined by the ~~department~~ division to be expedient and practical;

(33) Report, as provided by law, to the Governor and the Legislature;

(34) Purchase materials, supplies, and equipment required for the state road program and system;

(35) Dispose of all obsolete and unusable and surplus supplies and materials which cannot be used advantageously and beneficially by the ~~department~~ division in the state road program by transfer of the supplies and materials to other governmental agencies and institutions by exchange, trade, or sale of the supplies and materials;

(36) Investigate road conditions, official conduct of ~~department~~ division personnel, and fiscal and financial affairs of the ~~department~~ division and hold hearings and make findings thereon or on any other matters within the jurisdiction of the ~~department~~ division;

(37) Establish road policies and administrative practices;

(38) Fix and revise from time to time tolls for transit over highway projects constructed by the Division of Highways after May 1, 1999, that have been authorized by the provisions of §17-17A-5b of this ~~chapter~~ code;

(39) Take actions necessary to alleviate any conditions as the Governor may declare to constitute an emergency, whether or not the emergency condition affects areas normally under the jurisdiction of the Division of Highways; and

(40) Provide family restrooms at all rest areas along interstate highways in this state, all to be constructed in accordance with federal law.

The bill (Eng. Com. Sub. for H. B. 3002), as amended, was then ordered to third reading.

**Eng. House Bill 3078**, Relating to powers and duties of the parole board.

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

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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

## **ARTICLE 12. PROBATION AND PAROLE.**

### **§62-12-13. Powers and duties of board; eligibility for parole; procedure for granting parole.**

(a) The Parole Board, whenever it is of the opinion that the best interests of the state and of the inmate will be served, and subject to the limitations provided in this section, shall release any inmate on parole for terms and upon conditions provided by this article.

(b) Any inmate of a state correctional institution is eligible for parole if he or she:

(1) (A) Has served the minimum term of his or her indeterminate sentence or has served one fourth of his or her definite term sentence, as the case may be; or

(B) He or she has applied for and been accepted by the Commissioner of Corrections and Rehabilitation into an accelerated parole program. To be eligible to participate in an accelerated parole program, the commissioner must determine that the inmate:

(i) Does not have a prior criminal conviction for a felony crime of violence against the person, a felony offense involving the use of a firearm, or a felony offense where the victim was a minor child;

(ii) Is not serving a sentence for a crime of violence against the person, or more than one felony for a controlled substance offense for which the inmate is serving a consecutive sentence,



a felony offense involving the use of a firearm, or a felony offense where the victim was a minor child; and

(iii) Has successfully completed a rehabilitation treatment program created with the assistance of a standardized risk and needs assessment.

(C) Notwithstanding any provision of this code to the contrary, any inmate who committed, or attempted to commit, a felony with the use, presentment, or brandishing of a firearm is not eligible for parole prior to serving a minimum of three years of his or her sentence or the maximum sentence imposed by the court, whichever is less: *Provided*, That any inmate who committed, or attempted to commit, any violation of §61-2-12 of this code, with the use, presentment, or brandishing of a firearm, is not eligible for parole prior to serving a minimum of five years of his or her sentence or one third of his or her definite term sentence, whichever is greater. Nothing in this paragraph applies to an accessory before the fact or a principal in the second degree who has been convicted as if he or she were a principal in the first degree if, in the commission of or in the attempted commission of the felony, only the principal in the first degree used, presented, or brandished a firearm. An inmate is not ineligible for parole under the provisions of this paragraph because of the commission or attempted commission of a felony with the use, presentment, or brandishing of a firearm unless that fact is clearly stated and included in the indictment or presentment by which the person was charged and was either: (i) Found guilty by the court at the time of trial upon a plea of guilty or nolo contendere; (ii) found guilty by the jury upon submitting to the jury a special interrogatory for such purpose if the matter was tried before a jury; or (iii) found guilty by the court if the matter was tried by the court without a jury.

(D) The amendments to this subsection adopted in the year 1981:

(i) Apply to all applicable offenses occurring on or after August 1 of that year;

(ii) Apply with respect to the contents of any indictment or presentment returned on or after August 1 of that year irrespective of when the offense occurred;

(iii) Apply with respect to the submission of a special interrogatory to the jury and the finding to be made thereon in any case submitted to the jury on or after August 1 of that year or to the requisite findings of the court upon a plea of guilty or in any case tried without a jury: *Provided*, That the state gives notice in writing of its intent to seek such finding by the jury or court, as the case may be. The notice shall state with particularity the grounds upon which the finding will be sought as fully as the grounds are otherwise required to be stated in an indictment, unless the grounds upon which the finding will be sought are alleged in the indictment or presentment upon which the matter is being tried;

(iv) Does not apply with respect to cases not affected by the amendments and in those cases the prior provisions of this section apply and are construed without reference to the amendments; and

(v) Insofar as the amendments relate to mandatory sentences restricting the eligibility for parole, all matters requiring a mandatory sentence shall be proved beyond a reasonable doubt in all cases tried by the jury or the court.

(E) As used in this section, "felony crime of violence against the person" means felony offenses set forth in §61-2-1 *et seq.*, §61-3E-1 *et seq.*, §61-8B-1 *et seq.*, or §61-8D-1 *et seq.* of this code.

(F) As used in this section, “felony offense where the victim was a minor child” means any felony crime of violence against the person and any felony violation set forth in §61-8-1 *et seq.*, §61-8A-1 *et seq.*, §61-8C-1 *et seq.*, or §61-8D-1 *et seq.* of this code.

(G) For the purpose of this section, the term “firearm” means any instrument which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive, gunpowder, or any other similar means;

(2) Is not in punitive segregation or administrative segregation as a result of disciplinary action;

(3) Has prepared and submitted to the Parole Board a written parole release plan setting forth proposed plans for his or her place of residence, employment and, if appropriate, his or her plans regarding education and post-release counseling and treatment which has been approved by the Division of Corrections and Rehabilitation: *Provided*, That an inmate’s application for parole may be considered by the board without the prior submission of a home plan, but the inmate shall have a home plan approved by the division prior to his or her release on parole. The Commissioner of the Division of Corrections and Rehabilitation, or his or her designee, shall review and investigate the plan and provide findings to the board as to the suitability of the plan: *Provided, however*, That in cases in which there is a mandatory 30-day notification period required prior to the release of the inmate, pursuant to §62-12-23 of this code, the board may conduct an initial interview and deny parole without requiring the development of a plan. In the event the board believes parole should be granted, it may defer a final decision pending completion of an investigation and receipt of the commissioner’s findings. Upon receipt of the plan, together with the investigation and findings, the board, through a panel, shall make a final decision regarding the granting or denial of parole; ~~and~~

(4) Has satisfied the board that if released on parole he or she will not constitute a danger to the community-; and

(5) Has successfully completed any individually required rehabilitative and educational programs, as determined by the division, while incarcerated: *Provided*, That, effective September 1, 2021, any inmate who satisfies all other parole eligibility requirements but is unable, through no fault of the inmate, to complete his or her required rehabilitative and educational programs while incarcerated, which are eligible to be taken while on parole, may be granted parole with the completion of such specified programs outside of the correctional institutions being a special condition of that person’s parole term: *Provided, however*, That the Parole Board may consider whether completion of the inmate’s outstanding amount of such programming would interfere with his or her successful reintegration into society.

(c) Except in the case of an inmate serving a life sentence, a person who has been previously twice convicted of a felony may not be released on parole until he or she has served the minimum term provided by law for the crime for which he or she was convicted. An inmate sentenced for life may not be paroled until he or she has served 10 years, and an inmate sentenced for life who has been previously twice convicted of a felony may not be paroled until he or she has served 15 years: *Provided*, That an inmate convicted of first degree murder for an offense committed on or after June 10, 1994, is not eligible for parole until he or she has served 15 years.

(d) In the case of an inmate sentenced to a state correctional facility regardless of the inmate’s place of detention or incarceration, the Parole Board, as soon as that inmate becomes eligible, shall consider the advisability of his or her release on parole.

(e) If, upon consideration, parole is denied, the board shall promptly notify the inmate of the denial. The board shall, at the time of denial, notify the inmate of the month and year he or she may apply for reconsideration and review. The board shall at least once a year reconsider and review the case of every inmate who was denied parole and who is still eligible: *Provided*, That the board may reconsider and review parole eligibility any time within three years following the denial of parole of an inmate serving a life sentence with the possibility of parole.

(f) Any inmate in the custody of the commissioner for service of a sentence who reaches parole eligibility is entitled to a timely parole hearing without regard to the location in which he or she is housed.

(g) The board shall, with the approval of the Governor, adopt rules governing the procedure in the granting of parole. No provision of this article and none of the rules adopted under this article are intended or may be construed to contravene, limit, or otherwise interfere with or affect the authority of the Governor to grant pardons and reprieves, commute sentences, remit fines, or otherwise exercise his or her constitutional powers of executive clemency.

(h) (1) The Division of Corrections and Rehabilitation shall promulgate policies and procedures for developing a rehabilitation treatment plan created with the assistance of a standardized risk and needs assessment. The policies and procedures shall provide for, at a minimum, screening and selecting inmates for rehabilitation treatment and development, using standardized risk and needs assessment and substance abuse assessment tools, and prioritizing the use of residential substance abuse treatment resources based on the results of the standardized risk and needs assessment and a substance abuse assessment. The results of all standardized risk and needs assessments and substance abuse assessments are confidential.

(2) An inmate shall not be paroled under paragraph (B), subdivision (1), subsection (b) of this section solely due to having successfully completed a rehabilitation treatment plan, but completion of all the requirements of a rehabilitation treatment plan along with compliance with the requirements of subsection (b) of this section creates a rebuttable presumption that parole is appropriate. The presumption created by this subdivision may be rebutted by a Parole Board finding that, according to the standardized risk and needs assessment, at the time parole release is sought the inmate still constitutes a reasonable risk to the safety or property of other persons if released. Nothing in subsection (b) of this section or in this subsection may be construed to create a right to parole.

(i) Notwithstanding the provisions of subsection (b) of this section, the Parole Board may grant or deny parole to an inmate against whom a detainer is lodged by a jurisdiction other than West Virginia for service of a sentence of incarceration, upon a written request for parole from the inmate. A denial of parole under this subsection precludes consideration for parole for a period of one year or until the provisions of subsection (b) of this section are applicable.

(j) If an inmate is otherwise eligible for parole pursuant to subsection (b) of this section, and has completed the rehabilitation treatment program required under subdivision (1), subsection (h) of this section, the Parole Board may not require the inmate to participate in an additional program, but may determine that the inmate must complete an assigned task or tasks prior to actual release on parole. The board may grant parole contingently, effective upon successful completion of the assigned task or tasks, without the need for a further hearing.

(k) (1) The Division of Corrections and Rehabilitation shall supervise all probationers and parolees whose supervision may have been undertaken by this state by reason of any interstate compact entered into pursuant to the Uniform Act for Out-of-State Parolee Supervision.

(2) The Division of Corrections and Rehabilitation shall provide supervision, treatment/recovery, and support services for all persons released to mandatory supervision under §15A-4-17 of this code.

(l) (1) When considering an inmate of a state correctional facility for release on parole, the Parole Board panel considering the parole shall have before it an authentic copy of, or report on, the inmate's current criminal record as provided through the West Virginia State Police, the United States Department of Justice, or any other reliable criminal information sources and written reports of the superintendent of the state correctional institution to which the inmate is sentenced:

(A) On the inmate's conduct record while in custody, including a detailed statement showing any and all infractions of disciplinary rules by the inmate and the nature and extent of discipline administered for the infractions;

(B) On the inmate's industrial record while in custody which shall include: The nature of his or her work, occupation or education, the average number of hours per day he or she has been employed or in class while in custody and a recommendation as to the nature and kinds of employment which he or she is best fitted to perform and in which the inmate is most likely to succeed when he or she leaves the state correctional institution; and

(C) On any physical, mental, psychological, or psychiatric examinations of the inmate.

(2) The Parole Board panel considering the parole may waive the requirement of any report when not available or not applicable as to any inmate considered for parole but, in every case, shall enter in its record its reason for the waiver: *Provided*, That in the case of an inmate who is incarcerated because the inmate has been found guilty of, or has pleaded guilty to, a felony under the provisions of §61-8-12 of this code or under the provisions of §61-8B-1 *et seq.* or §61-8C-1 *et seq.* of this code, the Parole Board panel may not waive the report required by this subsection. The report shall include a study and diagnosis of the inmate, including an on-going treatment plan requiring active participation in sexual abuse counseling at an approved mental health facility or through some other approved program: *Provided, however*, That nothing disclosed by the inmate during the study or diagnosis may be made available to any law-enforcement agency, or other party without that inmate's consent, or admissible in any court of this state, unless the information disclosed indicates the intention or plans of the parolee to do harm to any person, animal, institution, or to property. Progress reports of outpatient treatment are to be made at least every six months to the parole officer supervising the parolee. In addition, in such cases, the Parole Board shall inform the prosecuting attorney of the county in which the person was convicted of the parole hearing and shall request that the prosecuting attorney inform the Parole Board of the circumstances surrounding a conviction or plea of guilty, plea bargaining, and other background information that might be useful in its deliberations.

(m) Before releasing any inmate on parole, the Parole Board shall arrange for the inmate to appear in person before a Parole Board panel and the panel may examine and interrogate him or her on any matters pertaining to his or her parole, including reports before the Parole Board made pursuant to the provisions of this section: *Provided*, That an inmate may appear by video teleconference if the members of the Parole Board panel conducting the examination are able to contemporaneously see the inmate and hear all of his or her remarks and if the inmate is able to

contemporaneously see each of the members of the panel conducting the examination and hear all of the members' remarks: *Provided, however,* That the requirement that an inmate personally appear may be waived where a physician authorized to do so by the Commissioner of the Division of Corrections and Rehabilitation certifies that the inmate, due to a medical condition or disease, is too debilitated, either physically or cognitively, to appear. The panel shall reach its own written conclusions as to the desirability of releasing the inmate on parole and the majority of the panel considering the release must concur in the decision. The superintendent shall furnish all necessary assistance and cooperate to the fullest extent with the Parole Board. All information, records, and reports received by the Parole Board shall be kept on permanent file.

(n) The Parole Board and its designated agents are at all times to have access to inmates imprisoned in any state correctional facility or in any jail in this state and may obtain any information or aid necessary to the performance of its duties from other departments and agencies of the state or from any political subdivision of the state.

(o) The Parole Board shall, if requested by the Governor, investigate and consider all applications for pardon, reprieve, or commutation and shall make recommendation on the applications to the Governor.

(p) Prior to making a recommendation for pardon, reprieve or commutation, the board shall notify the sentencing judge and prosecuting attorney at least 10 days before the recommendation.

(q) A parolee shall participate as a condition of parole in the litter control program of the county to which he or she is released to the extent directed by the Parole Board, unless the board specifically finds that this alternative service would be inappropriate.

(r) The commissioner shall develop, maintain, and make publicly available a general list of rehabilitative and educational programs available outside of the correctional institutions which an inmate may be required to complete as a special condition of parole pursuant to subdivision (5) of subsection (b) of this section, and the manner and method in which such programs shall be completed by the parolee.

The bill (Eng. H. B. 3078), as amended, was then ordered to third reading.

**Eng. House Bill 3107**, Declaring that Post Traumatic Stress Disorder diagnosed by a licensed psychiatrist is a compensable occupational disease for first responders.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

**Eng. House Bill 3129**, Relating to the Consumer Price Index rate increase.

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

**Eng. House Bill 3132**, Relating to motor carrier inspectors.

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

**Eng. House Bill 3133**, Relating to motor carrier rates.

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

**Eng. House Bill 3177**, Removing expired, outdated, inoperative and antiquated provisions and report requirements in education.

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

The following amendments to the bill, from the Committee on Education, were reported by the Clerk, considered simultaneously, and adopted:

On page sixteen, by striking out all of section seventeen and inserting in lieu thereof a new section seventeen, to read as follows:

**§18-9B-17. Duties of county board and county superintendent.**

A county board of education and a county superintendent shall comply with the instructions of the ~~state board of finance~~ State Board of Education and state superintendent and shall perform the duties required of them in accordance with the provisions of this article.;

On page sixteen, by striking out all of section eighteen and inserting in lieu thereof a new section eighteen, to read as follows:

**§18-9B-18. Issuance and enforcement of orders.**

The ~~board of finance~~ state superintendent shall enforce the requirements of and ~~its~~ his or her regulations issued under this article. The ~~board~~ state superintendent may issue orders to county boards of education requiring specific compliance with ~~its~~ his or her instructions. If a county board fails or refuses to comply, the ~~board~~ state superintendent may proceed to enforce ~~its~~ his or her order by any appropriate remedy, including, but not limited to, initiating legal action in any court of competent jurisdiction.;

And,

On page seventeen, by striking out all of section nineteen and inserting in lieu thereof a new section nineteen, to read as follows:

**§18-9B-19. Withholding of state aid for noncompliance by county board.**

(a) The ~~board of finance~~ state superintendent may withhold payment of state aid from a county board that fails or refuses to comply with the provisions of this ~~article~~ code or the requirements of the ~~state board~~ superintendent. ~~made in accordance therewith~~

(b) If the state superintendent finds that the action of a county board or county superintendent does not comply with state law or state board policy, and that the noncompliance could adversely impact the delivery of a thorough and equitable education to all students in the county, the state superintendent may require the following action during the periods of noncompliance:

(1) Approval of meeting agendas by the state superintendent;

(2) Attendance by the state superintendent or designee at county board meetings; and

(3) Approval by the state superintendent of county-level expenditures.

(c) The state superintendent shall report any action of enforcement against a county board pursuant to this section or any other provision of law to the state board at its next meeting..

The bill (Eng. H. B. 3177), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 3215**, Amending the requirements to become an elected prosecutor.

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

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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

#### **ARTICLE 4. PROSECUTING ATTORNEY, REWARDS, AND LEGAL ADVICE.**

##### **§7-4-1a. Eligibility of prosecuting attorneys.**

To be eligible to be a candidate for the office of prosecuting attorney, a person shall be a duly licensed attorney in the State of West Virginia at the time of his or her filing for office.

The bill (Eng. Com. Sub. for H. B. 3215), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 3266**, Providing for termination of extracurricular contact upon retirement.

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

**Eng. House Bill 3299**, Authorizing Higher Education Rules.

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

The following amendment to the bill, from the Committee on Education, was reported by the Clerk and adopted:

On page seven, section two, lines one hundred seventy through one hundred seventy-four, by striking out all of subsection (II) and inserting in lieu thereof a new subsection (II), to read as follows:

(II) The legislative rule filed in the State Register on July 29, 2020, relating to the Higher Education Policy Commission (Mental Health Loan Repayment Program) is authorized, with the following amendments:

On page one, subdivision, 3.1.b., after the words "family therapist," by inserting the words "psychiatric mental health nurse practitioner,";

On page two, subsection 6.1, by striking out the words “at least” and inserting in lieu thereof the words “up to”; and

On page three, subsection 9.1, after the words “family therapists,” by inserting the words “psychiatric mental health nurse practitioners.”.

The bill (Eng. H. B. 3299), as amended, was then ordered to third reading.

**Eng. House Bill 3301**, Relating generally to property tax increment financing districts.

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

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

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

**§7-11B-3. Definitions.**

(a) General. — When used in this article, words and phrases defined in this section have the meanings ascribed to them in this section unless a different meaning is clearly required either by the context in which the word or phrase is used or by specific definition in this article.

(b) Words and phrases defined. —

“Agency” includes a municipality, a county or municipal development agency established pursuant to authority granted in §7-12-1 of this code, a port authority, an airport authority or any other entity created by this state or an agency or instrumentality of this state that engages in economic development activity or the Division of Highways.

“Base assessed value” means the taxable assessed value of all real and tangible personal property, excluding personal motor vehicles, having a tax situs within a development or redevelopment district as shown upon the landbooks and personal property books of the assessor on July 1 of the calendar year preceding the effective date of the order or ordinance creating and establishing the development or redevelopment district: *Provided*, That for any development or redevelopment district approved after the effective date of the amendments to this section enacted during the regular session of the Legislature in 2014, personal trailers, personal boats, personal campers, personal motor homes, personal ATVs and personal motorcycles having a tax situs within a development or redevelopment district are excluded from the base assessed value.

“Blighted area” means an area within the boundaries of a development or redevelopment district located within the territorial limits of a municipality or county in which the structures, buildings or improvements, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for access, ventilation, light, air, sanitation, open spaces, high density of population and overcrowding or the existence of conditions which endanger life or property, are detrimental to the public health, safety, morals or welfare. “Blighted area” includes any area which, by reason of the presence of a substantial number of substandard, slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, defective or unusual conditions of title or the existence of conditions which endanger life or property by fire and other causes, or



any combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use, or any area which is predominantly open and which because of lack of accessibility, obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

“Commissioner of Highways” means the Commissioner of the Division of Highways.

“Conservation area” means any improved area within the boundaries of a development or redevelopment district located within the territorial limits of a municipality or county in which fifty percent or more of the structures in the area have an age of thirty-five years or more. A conservation area is not yet a blighted area but is detrimental to the public health, safety, morals or welfare and may become a blighted area because of any one or more of the following factors: Dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning. A conservation area shall meet at least three of the factors provided in this subdivision.

“County commission” means the governing body of a county of this state and, for purposes of this article only, includes the governing body of a Class I, Class II or Class III municipality in this state.

“Current assessed value” means the annual taxable assessed value of all real and tangible personal property, excluding personal motor vehicles, having a tax situs within a development or redevelopment district as shown upon the landbook and personal property records of the assessor: *Provided*, That for any development or redevelopment district approved after the effective date of the amendments to this section enacted during the regular session of the Legislature in 2014, personal trailers, personal boats, personal campers, personal motor homes, personal ATVs and personal motorcycles having a tax situs within a development or redevelopment district are excluded from the current assessed value.

“Development office” means the West Virginia Department of Economic Development Office created in §5B-2-1 of this code.

“Development project” or “redevelopment project” means a project undertaken in a development or redevelopment district for eliminating or preventing the development or spread of slums or deteriorated, deteriorating or blighted areas, for discouraging the loss of commerce, industry or employment, for increasing employment or for any combination thereof in accordance with a tax increment financing plan. A development or redevelopment project may include one or more of the following:

(A) The acquisition of land and improvements, if any, within the development or redevelopment district and clearance of the land so acquired; or

(B) The development, redevelopment, revitalization or conservation of the project area whenever necessary to provide land for needed public facilities, public housing or industrial or commercial development or revitalization, to eliminate unhealthful, unsanitary or unsafe conditions, to lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards,

eliminate obsolete or other uses detrimental to public welfare or otherwise remove or prevent the spread of blight or deterioration;

(C) The financial or other assistance in the relocation of persons and organizations displaced as a result of carrying out the development or redevelopment project and other improvements necessary for carrying out the project plan, together with those site improvements that are necessary for the preparation of any sites and making any land or improvements acquired in the project area available, by sale or lease, for public housing or for development, redevelopment or rehabilitation by private enterprise for commercial or industrial uses in accordance with the plan;

(D) The construction of capital improvements within a development or redevelopment district designed to increase or enhance the development of commerce, industry or housing within the development project area; or

(E) Any other projects the county commission or the agency deems appropriate to carry out the purposes of this article.

“Development or redevelopment district” means an area proposed by one or more agencies as a development or redevelopment district which may include one or more counties, one or more municipalities or any combination thereof, that has been approved by the county commission of each county in which the project area is located if the project is located outside the corporate limits of a municipality, or by the governing body of a municipality if the project area is located within a municipality, or by both the county commission and the governing body of the municipality when the development or redevelopment district is located both within and without a municipality.

“Division of Highways” means the state Department of Transportation, Division of Highways.

“Economic development area” means any area or portion of an area within the boundaries of a development or redevelopment district located within the territorial limits of a municipality or county that is neither a blighted area nor a conservation area and for which the county commission finds that development or redevelopment will not be solely used for development of commercial businesses that will unfairly compete in the local economy and that development or redevelopment is in the public interest because it will:

(A) Discourage commerce, industry or manufacturing from moving their operations to another state;

(B) Result in increased employment in the municipality or county, whichever is applicable; or

(C) Result in preservation or enhancement of the tax base of the county or municipality.

“Governing body of a municipality” means the city council of a Class I, Class II or Class III municipality in this state.

“Incremental value”, for any development or redevelopment district, means the difference between the base assessed value and the current assessed value. The incremental value will be positive if the current value exceeds the base value and the incremental value will be negative if the current value is less than the base assessed value.

“Includes” and “including”, when used in a definition contained in this article, shall not exclude other things otherwise within the meaning of the term being defined.

“Intergovernmental agreement” means any written agreement that may be entered into by and between two or more county commissions, or between two or more municipalities, or between a county commission and a municipality, in the singular and the plural, or between two or more government entities and the Commissioner of Highways: *Provided*, That any intergovernmental agreement shall not be subject to provisions governing intergovernmental agreements set forth in other provisions of this code, including, but not limited to, §8-23-1 *et seq.* of this code, but shall be subject to the provisions of this article.

“Local levying body” means the county board of education and the county commission and includes the governing body of a municipality when the development or redevelopment district is located, in whole or in part, within the boundaries of the municipality.

“Obligations” or “tax increment financing obligations” means bonds, loans, debentures, notes, special certificates or other evidences of indebtedness issued by a county commission or municipality pursuant to this article to carry out a development or redevelopment project or to refund outstanding obligations under this article.

“Order” means an order of the county commission adopted in conformity with the provisions of this article and as provided in this chapter.

“Ordinance” means a law adopted by the governing body of a municipality in conformity with the provisions of this article and as provided in §8-1-1 *et seq.* of this code.

~~“Payment in lieu of taxes” means those estimated revenues from real property and tangible personal property having a tax situs in the area selected for a development or redevelopment project which revenues, according to the development or redevelopment project or plan, are to be used for a private use, which levying bodies would have received had a county or municipality not adopted one or more tax increment financing plans and which would result from levies made after the date of adoption of a tax increment financing plan during the time the current assessed value of all taxable real and tangible personal property in the area selected for the development or redevelopment project exceeds the total base assessed value of all taxable real and tangible personal property in the development or redevelopment district until the designation is terminated as provided in this article~~ a payment with respect to real and personal property located in a development or redevelopment district and owned in title by this state, a political subdivision of this state or an agency or instrumentality thereof, that is made by the lessee of such property pursuant to a written payment in lieu of taxes agreement, whether in effect as of, or subsequent to, the date of creation of the development or redevelopment district.

“Person” means any natural person, and any corporation, association, partnership, limited partnership, limited liability company or other entity, regardless of its form, structure or nature, other than a government agency or instrumentality.

“Private project” means any project that is subject to ad valorem property taxation in this state or to a payment in lieu of tax agreement that is undertaken by a project developer in accordance with a tax increment financing plan in a development or redevelopment district.

“Project” means any capital improvement, facility or both, as specifically set forth and defined in the project plan, requiring an investment of capital including, but not limited to, extensions, additions or improvements to existing facilities, including water or wastewater facilities, and the remediation of contaminated property as provided for in §22-22-1 *et seq.* of this code, but does not include performance of any governmental service by a county or municipal government.

“Project area” means an area within the boundaries of a development or redevelopment district in which a development or redevelopment project is undertaken as specifically set forth and defined in the project plan.

“Project costs” means expenditures made in preparation of the development or redevelopment project plan and made, or estimated to be made, or monetary obligations incurred, or estimated to be incurred, by the county commission which are listed in the project plan as capital improvements within a development or redevelopment district, plus any costs incidental thereto. “Project costs” include, but are not limited to:

(A) Capital costs, including, but not limited to, the actual costs of the construction of public works or improvements, capital improvements and facilities, new buildings, structures and fixtures, the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures, environmental remediation, parking and landscaping, the acquisition of equipment and site clearing, grading and preparation;

(B) Financing costs, including, but not limited to, an interest paid to holders of evidences of indebtedness issued to pay for project costs, all costs of issuance and any redemption premiums, credit enhancement or other related costs;

(C) Real property assembly costs, meaning any deficit incurred resulting from the sale or lease as lessor by the county commission of real or personal property having a tax situs within a development or redevelopment district for consideration that is less than its cost to the county commission;

(D) Professional service costs including, but not limited to, those costs incurred for architectural planning, engineering and legal advice and services;

(E) Imputed administrative costs including, but not limited to, reasonable charges for time spent by county employees or municipal employees in connection with the implementation of a project plan;

(F) Relocation costs including, but not limited to, those relocation payments made following condemnation and job training and retraining;

(G) Organizational costs including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public with respect to the creation of a development or redevelopment district and the implementation of project plans;

(H) Payments made, in the discretion of the county commission or the governing body of a municipality, which are found to be necessary or convenient to creation of development or redevelopment districts or the implementation of project plans; and

(I) That portion of costs related to the construction of environmental protection devices, storm or sanitary sewer lines, water lines, amenities or streets or the rebuilding or expansion of streets, or the construction, alteration, rebuilding or expansion of which is necessitated by the project plan for a development or redevelopment district, whether or not the construction, alteration, rebuilding or expansion is within the area or on land contiguous thereto.

“Project developer” means any person who engages in the development of projects in the state.

“Project plan” means the plan for a development or redevelopment project that is adopted by a county commission or governing body of a municipality in conformity with the requirements of this article and this chapter or §8-1-1 *et seq.* of this code.

“Real property” means all lands, including improvements and fixtures on them and property of any nature appurtenant to them or used in connection with them and every estate, interest and right, legal or equitable, in them, including terms of years and liens by way of judgment, mortgage or otherwise, and indebtedness secured by the liens.

“Redevelopment area” means an area designated by a county commission or the governing body of a municipality in respect to which the commission or governing body has made a finding that there exist conditions which cause the area to be classified as a blighted area, a conservation area, an economic development area or a combination thereof, which area includes only those parcels of real property directly and substantially benefitted by the proposed redevelopment project located within the development or redevelopment district or land contiguous thereto.

“Redevelopment plan” means the comprehensive program under this article of a county or municipality for redevelopment intended by the payment of redevelopment costs to reduce or eliminate those conditions, the existence of which qualified the redevelopment area as a blighted area, conservation area, economic development area or combination thereof, and to thereby enhance the tax bases of the levying bodies which extend into the redevelopment area. Each redevelopment plan shall conform to the requirements of this article.

“Tax increment” means the amount of regular levy property taxes attributable to the amount by which the current assessed value of real and tangible personal property having a tax situs in a development or redevelopment district exceeds the base assessed value of the property. Provided, That where the period of existence of a development or redevelopment district is extended beyond its originally scheduled termination date as permitted by §7-11B-10 of this code, only the regular and excess property tax levies of the county commission and any Class I, II, III or IV municipality, a portion of which is located within the boundaries of the development or redevelopment district, shall be included in the tax increment following the originally scheduled termination date of the development or redevelopment district.

“Tax increment financing fund” means a separate fund for a development or redevelopment district established by the county commission or governing body of the municipality into which all tax increment revenues and other pledged revenues are deposited and from which projected project costs, debt service and other expenditures authorized by this article are paid.

“This code” means the Code of West Virginia, 1931, as amended by the Legislature.

“Total ad valorem property tax regular levy rate” means the aggregate levy rate of all levying bodies on all taxable property having a tax situs within a development or redevelopment district in a tax year but does not include excess levies, levies for general obligation bonded indebtedness or any other levies that are not regular levies.

#### **§7-11B-7. Creation of a development or redevelopment area or district.**

(a) County commissions and the governing bodies of Class I, Class II or Class III municipalities, upon their own initiative or upon application of an agency or a developer, may propose creation of a development or redevelopment district and designate the boundaries of the district: *Provided*, That a district may not include noncontiguous land.

(b) The county commission or municipality proposing creation of a development or redevelopment district shall then hold a public hearing at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation of a development or redevelopment district and its proposed boundaries.

(1) Notice of the hearing shall be published as a Class II legal advertisement in accordance with §59-3-2 of this code.

(2) The notice shall include the time, place and purpose of the public hearing, describe in sufficient detail the tax increment financing plan, the proposed boundaries of the development or redevelopment district and, when a development or redevelopment project plan is being proposed, the proposed tax increment financing obligations to be issued to finance the development or redevelopment project costs.

(3) Prior to the first day of publication, a copy of the notice shall be sent by first-class mail to the director of the Development Office and to the chief executive officer of all other local levying bodies having the power to levy taxes on real and tangible personal property located within the proposed development or redevelopment district.

(4) All parties who appear at the hearing shall be afforded an opportunity to express their views on the proposal to create the development or redevelopment district and, if applicable, the development or redevelopment project plan and proposed tax increment financing obligations.

(c) After the public hearing, the county commission, or the governing body of the municipality, shall finalize the boundaries of the development or redevelopment district, the development or redevelopment project plan, or both, and submit the same to the director of the Development Office for his or her review and approval. The director, within sixty days after receipt of the application, shall approve the application as submitted, reject the application or return the application to the county commission or governing body of the municipality for further development or review in accordance with instructions of the director of the Development Office. A development or redevelopment district or development or redevelopment project plan may not be adopted by the county commission or the governing body of a municipality until after it has been approved by the executive director of the Development Office.

(d) Upon approval of the application by the Development Office, the county commission may enter an order and the governing body of the municipality proposing the district or development or redevelopment project plan may adopt an ordinance, that:

(1) Describes the boundaries of a development or redevelopment district sufficiently to identify with ordinary and reasonable certainty the territory included in the district, which boundaries shall create a contiguous district;

(2) Creates the development or redevelopment district as of a date provided in the order or ordinance;

(3) Assigns a name to the development or redevelopment district for identification purposes.

(A) The name may include a geographic or other designation, shall identify the county or municipality authorizing the district and shall be assigned a number, beginning with the number one.

(B) Each subsequently created district in the county or municipality shall be assigned the next consecutive number;

(4) Contains findings that the real property within the development or redevelopment district will be benefitted by eliminating or preventing the development or spread of slums or blighted, deteriorated or deteriorating areas, discouraging the loss of commerce, industry or employment, increasing employment or any combination thereof;

(5) Approves the development or redevelopment project plan, if applicable;

(6) Establishes a tax increment financing fund as a separate fund into which all tax increment revenues and other revenues designated by the county commission, or governing body of the municipality, for the benefit of the development or redevelopment district shall be deposited, and from which all project costs shall be paid, which may be assigned to and held by a trustee for the benefit of bondholders if tax increment financing obligations are issued by the county commission or the governing body of the municipality; and

(7) Provides that ad valorem property taxes on real and tangible personal property having a tax situs in the development or redevelopment district shall be assessed, collected and allocated in the following manner, commencing upon the date of adoption of such order or ordinance and continuing for so long as any tax increment financing obligations are payable from the tax increment financing fund, hereinafter authorized, are outstanding and unpaid:

(A) For each tax year, the county assessor shall record in the land and personal property books both the base assessed value and the current assessed value of the real and tangible personal property having a tax situs in the development or redevelopment district;

(B) Ad valorem taxes collected from regular levies upon real and tangible personal property having a tax situs in the district that are attributable to the lower of the base assessed value or the current assessed value of real and tangible personal property located in the development project area shall be allocated to the levying bodies in the same manner as applicable to the tax year in which the development or redevelopment project plan is adopted by order of the county commission or by ordinance adopted by the governing body of the municipality;

(C) The tax increment with respect to real and tangible personal property in the development or redevelopment district shall be allocated and paid into the tax increment financing fund and shall be used to pay the principal of and interest on tax increment financing obligations issued to finance the costs of the development or redevelopment projects in the development or redevelopment district. Any levying body having a development or redevelopment district within its taxing jurisdiction shall not receive any portion of the annual tax increment except as otherwise provided in this article; and

(D) In no event shall the tax increment include any taxes collected from excess levies, levies for general obligation bonded indebtedness or any levies other than the regular levies provided for in §11-8-1 *et seq.* of this code.

(e) Proceeds from tax increment financing obligations issued under this article may only be used to pay for costs of development and redevelopment projects to foster economic development in the development or redevelopment district or land contiguous thereto.

(f) Notwithstanding subsection (d) of this section, a county commission may not enter an order approving a development or redevelopment project plan unless the county commission expressly finds and states in the order that the development or redevelopment project is not reasonably expected to occur without the use of tax increment financing.

(g) Notwithstanding subsection (d) of this section, the governing body of a municipality may not adopt an ordinance approving a development or redevelopment project plan unless the governing body expressly finds and states in the ordinance that the development or redevelopment project is not reasonably expected to occur without the use of tax increment financing.

(h) No county commission shall establish a development or redevelopment district any portion of which is within the boundaries of a Class I, II, III or IV municipality without the formal consent of the governing body of such municipality.

(i) A tax increment financing plan that has been approved by a county commission or the governing body of a municipality may be amended by following the procedures set forth in this article for adoption of a new development or redevelopment project plan.

(j) The county commission may modify the boundaries of the development or redevelopment district, from time to time, or the governing body of a county may extend the length of existence of the development or redevelopment district as set forth in §7-11B-10 of this code, subject to the limitations and requirements of this section. by entry of an order modifying the order creating the development or redevelopment district.

(k) The governing body of a municipality may modify the boundaries of the development or redevelopment district, from time to time, or extend the length of existence of the development or redevelopment district as set forth in §7-11B-10 of this code, by amending the ordinance establishing the boundaries of the district creating the development or redevelopment district.

(l) Before a county commission or the governing body of a municipality may amend such an order or ordinance, the county commission or municipality shall give the public notice as provided in subdivisions (1) and (2), subsection (b) of this section, hold a public hearing, as provided in subdivision (4), subsection (b) of this section, ~~and obtain the approval of the director of the Development Office, and obtain the formal consent of the governing body of any Class I, II, III or IV municipality a portion of which is located within the boundaries of the development or redevelopment district following the procedures for establishing a new development or redevelopment district.~~ In the event any tax increment financing obligations are outstanding with respect to the development or redevelopment district, any change in the boundaries shall not reduce the amount of tax increment available to secure the outstanding tax increment financing obligations.

#### **§7-11B-9. Project plan – amendment.**

(a) The county commission may by order, or the governing body of a municipality by ordinance, adopt an amendment to a project plan.

(b) Adoption of an amendment to a project plan shall be preceded by a public hearing held by the county commission, or governing body of the municipality, at which interested parties shall be afforded a reasonable opportunity to express their views on the amendment.



(1) Notice of the hearing shall be published as a Class II legal advertisement in accordance with ~~section two, article three, chapter fifty-nine~~ §59-3-2 of this code.

(2) Prior to publication, a copy of the notice shall be sent by first-class mail to the chief executive officer of all other local levying bodies having the power to levy taxes on property within the development or redevelopment district.

(3) Copies of the proposed plan amendments shall be made available to the public at the county clerk's office or municipal clerk's office at least fifteen days prior to the hearing.

(c) One or more existing development or redevelopment districts may be combined pursuant to lawfully adopted amendments to the original plans for each district: *Provided*, That the county commission, or governing body of the municipality, finds that the combination of the districts will not impair the security for any tax increment financing obligations previously issued pursuant to this article.

(1) The base assessed value of the real and tangible personal property located in the combined development or redevelopment district following such combination shall be the same base assessed value as existed for such real and tangible personal property in each of the separate development or redevelopment districts prior to such combination.

(2) The termination date for the combined development or redevelopment district which results from the combination of two or more previously created districts shall be the termination date as provided pursuant to §7-11B-10 of this code of the development or redevelopment district which had the latest termination date prior to the combination of such districts.

#### **§7-11B-10. Termination of development or redevelopment district.**

(a) No development or redevelopment district may be in existence for a period longer than thirty years and no tax increment financing obligations may have a final maturity date later than the termination date of the area or district: *Provided*, That, for any existing development or redevelopment district for which tax increment financing obligations have been issued by a county commission, or the governing body of a municipality, prior to December 31, 2020, the termination date for that existing development or redevelopment district may be extended not more than five years or until December 31, 2050, whichever is earlier.

(b) The county commission or governing body of the municipality creating the development or redevelopment district may set a shorter period for the existence of the district. In this event, no tax increment financing obligations may have a final maturity date later than the termination date of the district. The county commission or the governing body of the municipality which created the development or redevelopment district may not take action to terminate a district prior to the time otherwise provided in its official action creating or extending the district if the county commission or the governing body of the municipality then has tax increment revenue obligations which remain outstanding and unpaid.

(c) Upon termination of the district, no further ad valorem tax revenues shall be distributed to the tax increment financing fund of the district.

(d) The county commission shall adopt, upon the expiration of the time periods set forth in this section, an order terminating the development or redevelopment district created by the county

commission: *Provided*, That no district shall be terminated so long as bonds with respect to the district remain outstanding.

(e) The governing body of the ~~county commission~~ municipality shall repeal, upon the expiration of the time periods set forth in this section, the ordinance establishing the development or redevelopment district: *Provided*, That no district shall be terminated so long as bonds with respect to the district remain outstanding.

#### **§7-11B-18. Payments in lieu of taxes and other revenues.**

(a) The county commission or municipality that created the development or redevelopment district shall deposit in the tax increment financing fund of the development or redevelopment district all payments in lieu of taxes received pursuant to any agreement entered into on or subsequent to the date of creation of a development or redevelopment district on tax exempt property located within the development or redevelopment district, and prior to the amendments to this section enacted in the 2021 regular session of the Legislature.

~~(b) The lessee of property that is exempt from property taxes because it is owned by this state, a political subdivision of this state or an agency or instrumentality thereof, which is the lessee of any facilities financed, in whole or in part, with tax increment financing obligations, shall execute a payment in lieu of tax agreement that shall remain in effect until the tax increment financing obligations are paid, during which period of time the lessee agrees to pay to the county sheriff an amount equal to the amount of ad valorem property taxes that would have been levied against the assessed value of the property were it owned by the lessee rather than a tax exempt entity. The~~

(b) Any real or personal property located within the development or redevelopment district and owned by this state, a political subdivision of this state or an agency or instrumentality thereof may be made subject to a payment in lieu of taxes agreement. The real and personal property subject to a payment in lieu of taxes agreement is deemed public property and exempt from ad valorem property taxation by this state, a political subdivision of this state, an agency or instrumentality thereof or other levying body, so long as it is owned in title by this state, a political subdivision of this state or an agency or instrumentality thereof. The exemption from ad valorem property taxation is applicable to any leasehold or similar interest held by persons other than this state, a political subdivision of this state or an agency or instrumentality thereof, if acquired or constructed with the written agreement of the county school board, county commission and any municipal authority within whose jurisdiction the real and personal property is physically situated.

(c) Any payment in lieu of taxes agreement shall be made between the public entity that owns the property, the lessee of the property who would be making the payment in lieu of taxes and the county school board, county commission and any municipal authority within whose jurisdiction the real or personal property is situate. The payment in lieu of taxes agreement shall provide the amount that shall be paid by the lessee and the amount, if any, that shall be attributable to the base assessed value of the property and the incremental value.

(d) Following the amendments to this section enacted in the 2021 regular session of the Legislature, any portion of the payment in lieu of taxes attributable in the payment in lieu of tax agreement to the incremental value shall be deposited in the tax increment financing fund. Following the amendments to this section enacted in the 2021 regular session of the Legislature, the remaining portion of the in lieu payment shall be distributed among the levying bodies as follows:

(1) The portion of the in lieu tax payment attributable to the base value of the property shall be distributed to the levying bodies in the same manner as taxes attributable in the payment in lieu of tax agreement to the base value of other property in the district are distributed; and

(2) The portions of the in lieu tax payment attributable in the payment in lieu of tax agreement to levies for bonded indebtedness and excess levies shall be distributed in the same manner as those levies on other property in the district are distributed.

(e) ~~(e)~~ Other revenues to be derived from the development or redevelopment district may also be deposited in the tax increment financing fund at the direction of the county commission.

**§7-11B-22. Tax increment financing obligations — terms, conditions.**

(a) Tax increment financing obligations may not be issued in an amount exceeding the estimated aggregate project costs, including all costs of issuance of the tax increment financing obligations.

(b) Tax increment financing obligations shall not be included in the computation of the Constitutional debt limitation of the county commission or municipality issuing the tax increment financing obligations.

(c) Tax increment financing obligations shall mature over a period not exceeding thirty years ~~from the date of entry of the county commission's order, or the effective date of the municipal ordinance, creating the development or redevelopment district and approving the development or redevelopment plan~~ their issue date, or a period terminating with the date of termination of the development or redevelopment district, whichever period terminates earlier.

(d) Tax increment financing obligations may contain a provision authorizing their redemption, in whole or in part, at stipulated prices, at the option of the county commission or municipality issuing the obligations, and, if so, the obligations shall provide the method of selecting the tax increment financing obligations to be redeemed.

(e) The principal and interest on tax increment financing obligations may be payable at any place set forth in the resolution, trust indenture or other document governing the obligations.

(f) Bonds or notes shall be issued in registered form.

(g) Bonds or notes may be issued in any denomination.

(h) Each tax increment financing obligation issued under this article is declared to be a negotiable instrument.

(i) The tax increment financing obligations may be sold at public or private sale.

(j) Insofar as they are consistent with subsections (a), (b) and (c) of this section, the procedures for issuance, form, contents, execution, negotiation and registration of county and municipal industrial or commercial revenue bonds set forth in ~~article two-c, chapter thirteen~~ §13-2C-1 et seq. of this code are incorporated by reference herein.

(k) The bonds may be refunded or refinanced and refunding bonds may be issued in any principal amount: *Provided*, That the last maturity of the refunding bonds shall not be later than

~~the last maturity of the bonds being refunded~~ termination date of the district as set forth in §7-11B-10 of this code.

The bill (Eng. H. B. 3301), as amended, was then ordered to third reading.

**Eng. House Bill 3304**, Authorizing the Division of Corrections and Rehabilitation to establish a Reentry and Transitional Housing Program.

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

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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

#### **CHAPTER 15A.**

#### **DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY.**

#### **ARTICLE 4A. EXPANDED WORK RELEASE PILOT PROGRAM.**

##### **§15A-4A-1. Purpose of article and legislative findings.**

(a) The purpose of this article is to establish an expanded required work release pilot program in no more than five locations in this state.

(b) The Legislature finds that the primary reasons for requiring participation in a work release program are to increase public protection while aiding the transition of the offender back into the community where he or she will be going with or without work release program participation. Participating in work release may reduce the likelihood of recidivism by gradually reintroducing an offender to the community while providing security, structure, and supervision and providing necessary services.

(c) The Legislature further finds that participation in a work release program provides an transitional environment for offenders nearing the end of their sentences while maintaining structure, supervision, offender accountability, improved program opportunities, employment counseling and placement, substance abuse, and life skills training.

##### **§15A-4A-2. Definitions.**

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

(1) "Commissioner" means the commissioner of the Division of Corrections and Rehabilitation;

(2) "Division" means the Division of Corrections and Rehabilitation;

(3) "Offender" means a person sentenced to the custody of the Commissioner for service of a sentence of incarceration due to conviction of a felony or felonies.

##### **§15A-4A-3. Expanded work release pilot program.**

The Commissioner of the Division of Corrections and Rehabilitation is hereby authorized to establish a pilot program expanding available work release facilities to no more than a total of five locations be used for eligible offenders who are sentenced to serve a term of imprisonment in the custody of the commissioner and whom the commissioner requires to serve the last portion of their sentences in a work release facility in accordance with this article.

**§15A-4A-4. Eligibility; Funding.**

(a) An offender is eligible to participate in the work release program if he or she :

(1) Is 18 years of age or older;

(2) Is physically and psychologically able, as determined by the commissioner, to participate in the program: *Provided*, That offenders with medical conditions or disabilities shall be eligible for work release placement.

(3) Is directed by the Commissioner of Corrections to participate in the work release program; and

(4) Meets other criteria as the commissioner of the Division of Corrections and Rehabilitation may direct pursuant to §29A-1-1 *et seq.* of this code.

(b) The expansion of work release authorized by this article is subject to funds being appropriated by the legislature therefor or appropriated funds being redirected thereto.

**§15A-4A-5. Limitations on eligibility for work release participation.**

The following persons may not participate in the work release program:

(1) An offender who requires inpatient psychological or psychiatric treatment;

(2) An offender who refuses to participate in the Offender Financial Responsibility Program;

(3) An offender who refuses to participate in the Institution Release Preparation Program; and

(4) An offender determined by the commissioner, in his or her sole discretion, to pose a threat to the safety of another or to the community or to be an otherwise inappropriate candidate for participation in the program.

**§15A-4A-6. Internal policy development.**

(a) The commissioner shall develop operational procedures and policies for the work release program. The procedures and policies may, pursuant to §15A-3-12 of this code, allow the division to partner with contractors to be established at multiple sites, which sites shall subject to the control and authority of the commissioner.

(b) The procedures and policies shall include the following:

(1) A period of Imprisonment in work release of no more than 6 months prior to release on parole or discharge which period of Imprisonment may include substance abuse education, mandatory employment or employment skills training, social skills training, and psychological evaluation and treatment. Additionally, the state Board of Education and State Superintendent of

Schools, pursuant to section five, article twenty, chapter eighteen of this code, respectively, may, as funds are available, establish an education program for those eligible offenders who are not recipients of a high school diploma or a certificate of high school equivalency.

(2) Policies and procedures identifying the facilities subject to the control and authority of the commissioner that will be used for offenders serving a sentence in a work release program;

(3) Policies and procedures establishing additional criteria the commissioner deems necessary and appropriate to determine eligibility and of offenders to serve the last portion of his or her sentence in a work release program;

(4) Policies and procedures to effectuate notification to a sentencing court of the performance of an eligible offender serving part of his or her sentence in a work release facility; and

(5) Any other policies and procedures that are necessary for the proper operation of the program.

(c) Upon successful completion of the work release program, an offender shall be released on parole or discharged in accordance with this article.

(d) An offender who does not satisfactorily complete the work release program shall be removed from the program and returned to serve the remainder of his or her sentence in a facility designated by the commissioner.

#### **§15A-4A-7. Funding and financial implications.**

Funding for the expanded work release pilot program may be derived from the state's general revenue fund or budget assigned annually to the division.

The bill (Eng. H. B. 3304), as amended, was then ordered to third reading.

**Eng. House Bill 3308**, Relating to increasing number of limited video lottery terminals .

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

**Eng. House Bill 3311**, Relating to the cost of medical records.

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

**Com. Sub. for House Joint Resolution 3**, Property Tax Modernization Amendment.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported committee amendments pending and the right for further amendments to be considered on that reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Eng. Com. Sub. for House Bill 2025**, Provide liquor, wine, and beer licensees with some new concepts developed during the State of Emergency utilizing new technology to provide greater freedom to operate in a safe and responsible manner.

**Eng. Com. Sub. for House Bill 2195**, Relating to motor vehicle crash reports.

**Eng. Com. Sub. for House Bill 2368**, Mylissa Smith's Law, creating patient visitation privileges.

**Eng. Com. Sub. for House Bill 2370**, Provide that Public Service Districts cannot charge sewer rates for filling a swimming pool.

**Eng. Com. Sub. for House Bill 2581**, Providing for the valuation of natural resources property and an alternate method of appeal of proposed valuation of natural resources property.

**Eng. Com. Sub. for House Bill 2667**, To create a cost saving program for state buildings regarding energy efficiency.

**Eng. Com. Sub. for House Bill 2671**, Relating to financial exploitation of elderly persons, protected persons or incapacitated adults.

**Eng. Com. Sub. for House Bill 2688**, Allow county political parties to have building funds in a similar manner that state parties are allowed.

**Eng. Com. Sub. for House Bill 2694**, Create the 2nd Amendment Preservation Act.

**Eng. Com. Sub. for House Bill 2747**, Transferring the Parole Board to the Office of Administrative Hearings.

**Eng. Com. Sub. for House Bill 2891**, Creating minimum statutory standards for law-enforcement officers.

**Eng. House Bill 2895**, Supplementing and amending the appropriations of public moneys to the Department of Veterans' Assistance.

**Eng. House Bill 2900**, Expiring funds to the balance of the Department of Education – State Board of Education – School Building Authority – School Construction Fund.

**Eng. Com. Sub. for House Bill 2933**, Anti-Discrimination Against Israel Act.

**Eng. Com. Sub. for House Bill 2982**, Relating to the Second Chances at Life Act of 2021.

**Eng. House Bill 2997**, Adding a defense to the civil penalty imposed for a result of delivery of fuel to a state other than the destination state printed on the shipping document for fuel.

**Eng. Com. Sub. for House Bill 3072**, Sunset the Board of Forestry.

**Eng. Com. Sub. for House Bill 3106**, To change the hearing requirement for misdemeanors to 10 days.

**Eng. House Bill 3128**, Relating to carrier fees on 911 fee revenues.

**Eng. House Bill 3313**, Making supplemental appropriation to the Division of Motor Vehicles.

**Eng. House Bill 3314**, Making supplemental appropriation to West Virginia State Police.

**Eng. House Bill 3315**, Making supplemental appropriation to Division of Environmental Protection - Oil and Gas Reclamation Fund.

And,

**Eng. House Bill 3316**, Supplemental appropriation to the Department of Education, State Board of Education.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Lindsay, Beach, Romano, and Woelfel.

At the request of Senator Lindsay, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of the passing of KJ Taylor, a Capital High School student who was killed last night.

Pending announcement of a meeting of the Committee on Rules,

On motion of Senator Takubo, at 4 p.m., the Senate adjourned until tomorrow, Friday, April 9, 2021, at 11 a.m.

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## **SENATE CALENDAR**

**Friday, April 09, 2021  
11:00 AM**

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### **SPECIAL ORDER OF BUSINESS**

**Saturday, April 10, 2020 – 1:00 PM**

Consideration of executive nominations

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### **UNFINISHED BUSINESS**

- S. C. R. 73 - Expiring certain executive emergency orders issued during coronavirus pandemic
- S. R. 44 - Recognizing public service of Honorable Tod Kaufman
- S. R. 45 - Recognizing centennial of WV Board of Architects
- S. R. 46 - Recognizing Buffalo Elementary on being Imagine Learning's March MATH Madness champions

### **THIRD READING**

- Eng. Com. Sub. for H. B. 2002 - Relating to Broadband
- Eng. H. B. 2029 - Relating to teacher preparation clinical experience programs
- Eng. Com. Sub. for H. B. 2145 - Relating to student aide class titles
- Eng. Com. Sub. for H. B. 2221 - Relating to the establishment of an insurance innovation process - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2266 - Relating to expanding certain insurance coverages for pregnant women
- Eng. H. B. 2379 - Make criminal invasion of privacy a felony - (Com. amend. pending) - (With right to amend)
- Eng. H. B. 2500 - Create an act for Statewide Uniformity for Auxiliary Container Regulations - (Com. amend. and title amend. pending) - (With right to amend)
- Eng. Com. Sub. for H. B. 2573 - Relating generally to the transparency and accountability of state grants to reduce waste, fraud, and abuse
- Eng. Com. Sub. for H. B. 2720 - Creating a Merit-Based Personnel System within DOT - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2794 - To extend the Neighborhood Investment Program Act to July 1, 2026

Eng. Com. Sub. for H. B. 2884 - To make changes to the FOIA law to protect public utility customer databases from disclosure, with exceptions

Eng. H. B. 2915 - Relating to public records management and preservation

Eng. Com. Sub. for H. B. 2927 - Adding Caregiving expenses to campaign finance expense - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2953 - To clarify that counties can hire fire fighters as paid staff and to modify the existing procedures to include a procedure of public hearing to commission a vote - (Com. title amend. pending) - (With right to amend)

Eng. Com. Sub. for H. B. 2962 - Relating generally to dental practice

Eng. Com. Sub. for H. B. 3002 - Update road abandonment process - (Com. title amend. pending)

Eng. H. B. 3078 - Relating to powers and duties of the parole board - (Com. title amend. pending)

Eng. H. B. 3129 - Relating to the Consumer Price Index rate increase - (Com. title amend. pending)

Eng. H. B. 3132 - Relating to motor carrier inspectors

Eng. H. B. 3133 - Relating to motor carrier rates - (Com. title amend. pending)

Eng. H. B. 3177 - Removing expired, outdated, inoperative and antiquated provisions and report requirements in education - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 3215 - Amending the requirements to become an elected prosecutor - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 3266 - Providing for termination of extracurricular contact upon retirement

Eng. H. B. 3299 - Authorizing Higher Education Rules

Eng. H. B. 3301 - Relating generally to property tax increment financing districts - (Com. title amend. pending)

Eng. H. B. 3304 - Authorizing the Division of Corrections and Rehabilitation to establish a Reentry and Transitional Housing Program - (Com. title amend. pending)

Eng. H. B. 3308 - Relating to increasing number of limited video lottery terminals

Eng. H. B. 3311 - Relating to the cost of medical records

Eng. Com. Sub. for H. J. R. 1 - Education Accountability Amendment - (Com. amend. and title amend. pending) - (With right to amend)

Eng. H. J. R. 2 - Providing that courts have no authority or jurisdiction to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate - (With right to amend)

Eng. Com. Sub. for H. J. R. 3 - Property Tax Modernization Amendment - (Com. amend. and title amend. pending) - (With right to amend)

## **SECOND READING**

Eng. Com. Sub. for H. B. 2025 - Provide liquor, wine, and beer licensees with some new concepts developed during the State of Emergency utilizing new technology to provide greater freedom to operate in a safe and responsible manner - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2195 - Relating to motor vehicle crash reports - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2363 - Relating to "Best Interests of the Child Protection Act of 2021" - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2368 - Mylissa Smith's Law, creating patient visitation privileges - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2370 - Provide that Public Service Districts cannot charge sewer rates for filling a swimming pool - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2581 - Providing for the valuation of natural resources property and an alternate method of appeal of proposed valuation of natural resources property - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2667 - To create a cost saving program for state buildings regarding energy efficiency

Eng. Com. Sub. for H. B. 2671 - Relating to financial exploitation of elderly persons, protected persons or incapacitated adults - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2688 - Allow county political parties to have building funds in a similar manner that state parties are allowed

Eng. Com. Sub. for H. B. 2694 - Create the 2nd Amendment Preservation Act - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2747 - Transferring the Parole Board to the Office of Administrative Hearings - (Com. amend. and title amend. pending)

Eng. H. B. 2776 - Creating the Air Ambulance Patient Protection Act - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2891 - Creating minimum statutory standards for law-enforcement officers - (Com. amend. and title amend. pending)

Eng. H. B. 2895 - Supplementing and amending the appropriations of public moneys to the Department of Veterans' Assistance

Eng. H. B. 2900 - Expiring funds to the balance of the Department of Education – State Board of Education – School Building Authority – School Construction Fund

Eng. Com. Sub. for H. B. 2933 - Anti-Discrimination Against Israel Act - (Com. amend. and title amend. pending)

- Eng. Com. Sub. for H. B. 2982 - Relating to the Second Chances at Life Act of 2021 - (Com. amend. pending) (original similar to SB609)
- Eng. H. B. 2997 - Adding a defense to the civil penalty imposed for a result of delivery of fuel to a state other than the destination state printed on the shipping document for fuel - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 3072 - Sunset the Board of Forestry - (Com. amend. pending)
- Eng. H. B. 3089 - Make utility workers essential employees during a state of emergency - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 3106 - To change the hearing requirement for misdemeanors to 10 days - (Com. amend. and title amend. pending)
- Eng. H. B. 3107 - Declaring that Post Traumatic Stress Disorder diagnosed by a licensed psychiatrist is a compensable occupational disease for first responders - (Com. amend. pending)
- Eng. H. B. 3128 - Relating to carrier fees on 911 fee revenues - (Com. amend. and title amend. pending)
- Eng. H. B. 3313 - Making supplemental appropriation to the Division of Motor Vehicles
- Eng. H. B. 3314 - Making supplemental appropriation to West Virginia State Police
- Eng. H. B. 3315 - Making supplemental appropriation to Division of Environmental Protection - Oil and Gas Reclamation Fund
- Eng. H. B. 3316 - Supplemental appropriation to the Department of Education, State Board of Education

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2021**

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**Friday, April 9, 2021**

10 a.m.

Rules

(Room 219M)